

**CITY OF NEWARK  
DELAWARE  
COUNCIL MEETING MINUTES**

**January 28, 2019**

Those present at 5:45 p.m.:

Presiding:	Mayor Polly Sierer District 1, Mark Morehead District 2, Jerry Clifton District 4, Chris Hamilton District 5, Jason Lawhorn District 6, Stu Markham
Absent:	District 3, Jen Wallace
Staff Members:	Acting City Manager Tom Coleman City Secretary Renee Bensley City Solicitor Paul Bilodeau Acting HR and Labor Relations Manager Mark Farrall Assistant to the Manager Mark Brainard Electric Director Bhadresh Patel Finance Director David Del Grande NPD Chief Paul Tiernan Deputy Chief Kevin Feeney Sergeant Greg D’Elia Parks and Recreation Director Joe Spadafino Planning and Development Director Mary Ellen Gray Planner Tom Fruehstorfer Acting Public Works and Water Resources Director Tim Filasky Mechanic Dave Vispi

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1. Ms. Sierer called the meeting to order at 5:45 p.m.

2. **EXECUTIVE SESSION**

- A. Executive Session pursuant to 29 Del. C. §10004 (b) (6) and (9) for the purposes of discussion of the content of documents, excluded from the definition of “public record” in §10002 of this title where such discussion may disclose the contents of such documents and discussing personnel matters in which the names, competency and abilities of individual employees are discussed.
- B. Executive Session pursuant to 29 Del. C. §10004 (b) (4) and (9) for the purposes of a strategy session, including those involving legal advice or opinion from an attorney-at-law, with respect to pending or potential litigation, but only when an open meeting would have an adverse effect on the litigation position of the public body and discussing personnel matters in which the names, competency and abilities of individual employees are discussed.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO ENTER EXECUTIVE SESSION FOR THE PURPOSES OF DISCUSSION OF THE CONTENT OF DOCUMENTS EXCLUDED FROM THE DEFINITION OF “PUBLIC RECORD” REGARDING PERSONNEL MATTERS IN WHICH THE NAMES, COMPETENCY AND ABILITIES OF INDIVIDUAL EMPLOYEES ARE DISCUSSED; AS WELL AS REMOVING EXECUTIVE SESSION ITEM B.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.  
Nay – 0.  
Absent – Wallace.

3. **RETURN TO PUBLIC SESSION**

**0:58**

4. Council exited Executive Session at 7:00 p.m. Ms. Sierer greeted the audience and announced Ms. Wallace would be absent this evening. Ms. Sierer asked for a moment of silence and the Pledge of Allegiance.

5. **PUBLIC PRESENTATIONS:**

A. Efficiency Smart Update –DEMEC

**1:46**

Patrick McCullar, President and CEO of DEMEC, announced he worked for the City of Newark approximately 20 years ago [for five or six years] as the Director of Finance. He stated he enjoyed his time working for the City very much and went to work for DEMEC because he wanted to work more on electric utility operations. Mr. McCullar expressed he was currently employed with DEMEC and had worked there for the past 20 years. Over the past 20 years at DEMEC, Mr. McCullar expressed he worked to serve the City of Newark and State to ensure their electrical utilities operated efficiently and effectively. He announced the presentation was about energy efficiency and stated DEMEC came to City Council last year with the initial presentation. Mr. McCullar clarified the updated version of the presentation with new information was before Council tonight. He announced there were four members from DEMEC who participated in the Energy Efficiency Program.

Mr. McCullar provided an overview of the program's proposal; specifically, it was customizable for each community and membership. There were benefits of the program that would go directly to each municipality in terms of saving money on the cost of operating utility. Benefits extended to customers would enable them to save energy, be more efficient and save on their electric bills. The program provided extreme flexibility and could be customized for the needs and priorities of each community. Mr. McCullar announced DEMEC hired the Vermont Energy Investment Corporation (VEIC) to manage the program. He described VEIC as one of the most experienced and oldest energy efficiency and demand response companies in the nation. Mr. McCullar said there were certain key roles that all parties played. He stated the program was comprised of a number of things. Product rebates would be implemented where DEMEC would work with merchants in the community (i.e. LED light bulbs, energy efficient appliances and trading old appliances for energy efficient ones). Engineering services and account management would be provided with staff that were dedicated and available to the City of Newark.

Community engagement would occur through work with City Council and City staff. Steps would be taken to reach out to residents/customers regarding service as well as provide ways for City staff to better serve the community. Marketing and promotions with a dedicated website for the City of Newark's Efficiency Smart program would be implemented. Additionally, customer service would be a priority with a dedicated call center. Performance tracking would be accomplished as well as energy evaluation, measurement and verification (EMV). Mr. McCullar believed it was not sufficient to merely claim the program saved energy; however, it was necessary to provide evidence [to customers and staff] of energy savings through substantive, measurable data. DEMEC also would partner with the Delaware Sustainable Energy Utility which had their own program called Energize Delaware. Mr. McCullar announced DEMEC already partnered with a number of organizations and were able to provide them with help from State programs as well as their own. These measures often doubled organizations' benefits.

There were key benefits for municipal members of DEMEC's program. Savings would be generated at the municipal level for comprehensive program participants. The savings accrued to both the municipality and their customers. Mr. McCullar clarified the comprehensive program provided the lowest cost option to the City; however, the cost of building a new power plant would be staggering. Mr. McCullar strongly advised the City to refrain from building a new power plant as he thought it was best to invest in energy efficient, sustainable options. Additionally, a new power plant would increase the cost to customers and the City due to the emissions that would be produced. Turnkey services would be supported by experienced staff with extensive technical expertise. Mr. McCullar emphasized the people DEMEC brought in were in the field for many years and were well-versed in the business; therefore, they would not deal with inexperienced people. Mr. McCullar believed the program could be serve as an economic development and retention tool for the City. He was familiar with the fact municipalities attempted to figure out how recruit and retain desirable businesses. Mr. McCullar announced municipalities often recruited or retained businesses by offering them something that would benefit them. The Efficiency Smart program utilized technical services for customers enrolled in the program.

Mr. McCullar said the Efficiency Smart program benefited municipal electrical systems through enhanced customer satisfaction and positive publicity. Positive publicity would be gained since DEMEC would come to community events to talk about energy efficiency and sustainability. The Efficiency Smart program would help the City address high utility bills; specifically, regarding customers who would call with concerns regarding utility bills. City staff would be provided with tools and resources to help customers and address their issues related to utility bills and energy efficiency. Mr. McCullar expressed

customers would have assistance available to them which would help them determine whether their residences needed new windows, insulation or other measures to increase energy efficiency and lower their bills. An engineer would be sent out at no cost to the residents in order to perform an energy efficiency study and identify potential issues or measures to help improve efficiency. Mr. McCullar emphasized DEMEC would be able to help residents and the City with State grant funding to help them be able to afford and install new windows, roofing or other energy efficient solutions. He announced the Efficiency Smart program embodied the principles of sustainability. Mr. McCullar expressed the Efficiency Smart program ensured sufficient and sustainable energy was obtained; furthermore, satisfying all customers. The Efficiency Smart program also attempted to reduce emissions and societal costs associated with power generation.

Mr. McCullar restated it was more cost effective for DEMEC and the community to utilize sustainable and renewable energy as opposed to building a new power plant. DEMEC saved a tremendous amount of money for every megawatt that was reduced and not delivered to the City. The coincident peak, cost of transmission and distribution as well as the cost of capacity obligation would be reduced through the Efficiency Smart program. Additionally, some of the capital investments could be deferred through reduction related to energy consumption. Ultimately, reduction of consumption potentially could forestall or delay the current capital investments and infrastructure. The existing infrastructure would continue to be good if they were able to ensure the demand for electricity did not increase too much. Mr. McCullar expressed the program provided the ability to bid the capacity savings into the PJM [energy] market. He clarified the PJM was part of the Regional Transmission Organization (RTO) that DEMEC and other municipalities were located in; furthermore, the PJM valued energy efficiency and would pay cities who were proven to be energy efficient.

Mr. McCullar restated the benefits for customers enrolled with the Efficiency Smart program (i.e. a combined program of rebates, incentives and discounts). Technical assistance would be provided through electrical engineers who would go out to help customers. Additionally, the program would promote objective information which would not be used for the purposes of promoting their own (DEMEC's) product. Mr. McCullar clarified advice and information would be provided to customers with their best interests in mind. A customer service center with an 800 number as well as a local call center would be available. Mr. McCullar reiterated there would be a website specifically designed for Newark. He restated the program was beneficial since it was customizable. For example, if low-income and elderly assistance was valued, the program would be tailored to include these populations. Assistance for small or medium-sized businesses could be built into the program as well. Mr. McCullar expressed Newark would be able to choose and customize their program. Since DEMEC had a pool of money allocated for Newark, it was important to ensure the money would be spent in the way the City desired. Mr. McCullar announced DEMEC could help Newark's local businesses generate more sales by having a promotion for energy efficient light bulbs [or whatever else it might be].

Mr. McCullar recognized there were several communities who had a substantial amount of oil-based heat. He described oil-based heat as old, inefficient and high in pollution. Mr. McCullar announced the Efficiency Smart program could help communities who used oil-based heat to figure out how they could pay for an investment to replace oil-based heating with an electric heat pump. He expressed electric heat pumps were very efficient these days. Mr. McCullar articulated the Efficiency Smart program provided experience, reliability and guaranteed improvement and efficiency in terms of sustainability. The VEIC would operate under the program name of Efficiency Smart. Currently, the Efficiency Smart program completed eight years and assisted 54 municipalities. Mr. McCullar said the lifetime savings associated with the program were not insubstantial. The contract for the program would be required to say the vendor must guarantee 70% of the savings target; specifically, the vendor would not receive payment unless they hit 70% of the savings target.

DEMEC first ran into the Efficiency Smart program when they joined American Municipal Power, Inc. (AMP). AMP had 130 communities which they served in their joint-action agency; furthermore, 54 of those communities participated in the Efficiency Smart program. Mr. McCullar announced four communities in DEMEC signed up for the Efficiency Smart program and hoped the others would sign up shortly. New services continually were offered as new technologies became available. Mr. McCullar said there were more beneficial items coming down the pipe [like the LED lights]. He stated DEMEC would help leverage services for Newark's members and constituents. Mr. McCullar said Eric Norenberg, City Manager of Milford, Delaware, came to the area from Oberlin, Ohio. He approached DEMEC approximately four years ago regarding the Efficiency Smart program. Mr. Norenberg expressed Oberlin, Ohio was a small college town that utilized the Efficiency Smart program. Oberlin set an aggressive goal to be 100% carbon neutral for their electricity. According to Mr. McCullar, Mr. Norenberg told him the Efficiency Smart program helped Oberlin make strides towards their goal; furthermore, he was a strong promoter of the program. Mr. McCullar announced DEMEC would be the primary contractor for the

Efficiency Smart program and would establish the agreements with each of the members to go forward with the program. Mr. McCullar emphasized DEMEC would not collect fees for the program; moreover, DEMEC paid for 100% of the Efficiency Smart program. All DEMEC requested from Newark was their participation in the program.

Mr. McCullar stated DEMEC would pay the contractor invoices, review program performance and act as the liaison between the Delaware Environmental Crimes Unit (ECU); additionally, they would ensure the PJM market was appropriate for the capacity savings brought in by the program. AMP served as the counter party in the contract. VEIC was the actual service provider. Mr. McCullar announced 23% of Newark's electrical use was attributed to residential customers. 18% of the City's electrical use was attributed to commercial customers with 59% attributed to industrial customers. The University was considered to be in the industrial category. Mr. McCullar said opportunity existed in each of the three categories of customers (residential, commercial and industrial); specifically, each of the customer groups had different needs and opportunities to save on their electric use.

He announced there were specific benefits [of a very high level] for the City of Newark that were not to be confused with customer savings. Such benefits would be accrued to the City of Newark as a result of the implementation of the Efficiency Smart program. For each year, Mr. McCullar estimated the program would save approximately 1150-Megawatt Hours for the City. Savings could be calculated through multiplying the 1150-Megawatt hours by the 12 years of average life for each investment. Mr. McCullar believed a great component of program was due to the fact it was permanent upon implementation. For example, if the City swapped out a lighting system for a lower consumption lighting system, there would be at least a 12-year life span for the new system. Therefore, the City would experience savings on the new system for at least 12 years going forward. The lifetime benefits estimated for the first three-years of the contract were approximately \$2.4 million. Mr. McCullar expressed the actual cost to DEMEC would be approximately \$1.2 million. With the average life-savings of three-years, Mr. McCullar announced the rate of return would be better than 2:1; moreover, he classified a 2:1 rate of return as substantial. Mr. McCullar said the Efficiency Smart program avoided delivered energy costs, transmission charges [which increased yearly] and avoided capacity obligation charges [which also increased on a yearly basis]. PJM charges – the RTO – accrued frequently; however, the Efficiency Smart program enabled DEMEC to avoid those charges. For every megawatt hour – that DEMEC did not transmit over the transmission system – resulted in great savings in all those areas. Mr. McCullar announced the conclusion of his presentation and stated he would be open to questions. His sole wish was for Newark to authorize signing up with DEMEC for the Efficiency Smart program in order to provide benefits for the community.

Ms. Sierer thanked Mr. McCullar and opened discussion to the table.

Mr. Markham asked Mr. McCullar if the Efficiency Smart program was presented to the CAC; additionally, he questioned if the CAC provided comments. Mr. McCullar stated the CAC reviewed the presentation and proposal and fully endorsed it. Mr. Coleman confirmed the CAC reviewed the presentation prior to [DEMEC] coming to Council the first time. Mr. Markham asked what the process Council needed to take in order to endorse the Efficiency Smart program; specifically, he wanted to know if Council needed to make a resolution. Mr. Coleman stated Council would need to provide direction to him regarding the path forward; therefore, it would not require a resolution from Council. Mr. Markham questioned whether the program had any downsides. Mr. McCullar emphasized he did not foresee any potential downside to the Efficiency Smart program. However, the downside would be if the vendor/contractor did not do a good job and harmed the program's reputation. For this reason, Mr. McCullar restated VEIC was chosen as the contractor due to their stellar reputation. Additionally, Mr. McCullar expressed DEMEC saw VEIC at work in the Ohio groups. Mr. McCullar was highly confident VEIC would perform well for DEMEC and would help improve their reputation for the customers. Mr. Markham stated he was a fan of energy efficiency and expressed he frequently spoke about transmission costs and peak charges at various Council meetings. He believed the Efficiency Smart program was a good idea and thought it would encourage people to lower their usage of electricity. Moreover, Mr. Markham wanted other areas related to energy efficiency to follow suit.

Mr. Clifton asked for clarification regarding whether any funding came from DEMEC [other than trying to obtain a grant for insulation]. Mr. McCullar expressed the money came from DEMEC; specifically, DEMEC would fund the Efficiency Smart program. He clarified individual homeowners would be required to make their own investments. There would be some funding through limited grant programs. The State of Delaware had grant programs that DEMEC could help customers access. Mr. McCullar restated customers would be responsible for most of the investments. Mr. Clifton acknowledged DEMEC was a business and believed the City of Newark could be considered to be a business as well. Many years ago, Newark went with 0.5% with Green Mountain [to get a foothold in renewable energy]. Additionally, Mr.

Clifton said renewable energy was promoted most recently with solar panels. Mr. Clifton thought everyone should work to reduce energy consumption. However, he acknowledged the profit margin would decrease and potentially could result in the request to raise rates. Mr. Clifton stated people went out of their way to save money and acknowledged he used LED lights in his own home. If the rates were raised to compensate for decreased profit margins, Mr. Clifton thought the program would not provide a true value to people.

Mr. McCullar said Mr. Clifton's comment was insightful and acknowledged this was the case with some programs. However, he asked the audience to remember DEMEC's Efficiency Smart program was not for profit. Mr. McCullar stated every dollar spent by DEMEC went towards municipal utilities. Furthermore, every dollar earned [over the cost to do the operation] belonged to the member utilities. The additional money went back to the community to invest in parks, police, roads and other needs municipalities might have. Mr. McCullar emphasized there were no stockholders or no one they were beholden to other than the owners. He restated the owners were the nine municipal electric utilities in the State of Delaware. Mr. McCullar believed the money saved through the program would exceed the money paid into the program. Therefore, he questioned why DEMEC would propose a program to the City which ultimately would end up costing them money. Mr. McCullar reiterated the Efficiency Smart program was not created for the purpose of costing people money. He emphasized the intent of the Efficiency Smart Program was to enable Newark to save citizens' and businesses' money. Mr. Clifton questioned if Newark's participation in DEMEC was roughly 45%. Mr. McCullar stated Newark's participation in DEMEC was approximately 35%. He stated participation used to be closer to 50%; however, Newark's participation in DEMEC had not grown as quickly due to the growth of other organizations. Mr. Clifton stated he remembered when Newark's participation rate was closer to 46% many years ago. Mr. McCullar confirmed this was the case.

Mr. Clifton wondered if Newark would see 35% of the efforts and costs associated with the program going towards the City's outreach and so forth. He believed Newark's residents ultimately owned the electric company; therefore, he thought it was only fair – since there was a 35% rate of ownership – for Newark to be assured they would receive equivalent outreach. Mr. McCullar thought Mr. Clifton raised a fair question and restated DEMEC invested the costs associated with the program into the communities [based on their load ratio share of all the electricity DEMEC delivered]. Since Newark accounted for 35% of the electricity DEMEC produced and delivered to their members, Mr. McCullar announced the City would receive approximately 35% of the investment DEMEC would offer. Mr. Del Grande interjected and stated any savings DEMEC generated from this program would come back directly to the City; therefore, the amount would be distributed through the City's RSA adjustment which would come out in March. Mr. Del Grande clarified the savings were observable on the residents' electric bills as a credit. He announced the credit would continue if the City continued to experience savings from DEMEC. Mr. McCullar believed Mr. Del Grande was happy since the City had not seen a rate increase from DEMEC in seven years; furthermore, if DEMEC continued to do their job correctly, they would not see rate increases going forward. Mr. Clifton told Mr. McCullar DEMEC did a fine job and he appreciated his work.

Ms. Sierer announced Mr. Coleman would provide information regarding Mr. Markham's earlier comments. Mr. Coleman said in order for the City to opt-in to the Efficiency Smart program, the only thing he needed was direction from Council. At that point, it would be necessary to develop an a-la-carte type menu for what Council would like to see in Newark's program. This menu would then be brought back to Council for discussion centered on the development of Newark's Efficiency Smart program and what they wanted [or did not want to include] for the community. Mr. McCullar agreed with Mr. Coleman and emphasized DEMEC would not simply slide in a vanilla or run of the mill contract; furthermore, DEMEC would work with the City to go over the menu of items that could be included in their program. He restated Newark's program would be designed specifically for them. Mr. McCullar announced Newark would be able to prioritize the various items and tasks of the program. DEMEC would write these priorities into Newark's agreement. Upon Newark's signature of the agreement, DEMEC would get the necessary people and parties to work for them.

Mr. Lawhorn supported moving forward with DEMEC's Efficiency Smart program.

Mr. Hamilton thought the program would cost approximately \$1.3 million over three years [about \$400,000 per year]; therefore, he questioned why DEMEC would not give \$400,000 upfront to line up energy efficient bulbs and give them out to residents. Mr. McCullar announced DEMEC already completed something similar when they assisted the City of Newark in replacing a large percentage of their street lights with LED street lights. Mr. McCullar expressed this act benefited the entire community; specifically, the lighting was better, lasted longer, and was provided at a lower cost. He stated it was not the best practice to blindly distribute money to people without facts and advice; specifically, money distributed without guidance would not be utilized as efficiently as it could. Mr. McCullar stated DEMEC would send

in electrical engineers in to residents' homes in order to help them determine where the best bang for their buck was in terms of energy efficiency. \$1.4 million did not go that far when it was spread around the community. However, hiring experts to go in and help a business be more efficient and produce more product at a lower cost was a big win. Mr. McCullar stated the program would assist lower-income families with grant funding in order to get insulation or new windows for their houses. These measures would eventually lower power bills and residents would be better off. Mr. McCullar emphasized DEMEC had substantial knowledge in the industry and wanted to share it with their customers to help them do better.

Mr. Morehead thanked Mr. McCullar for presenting the matter before Council. He asked for clarification regarding the cost of power delivered; specifically, if the cost delivered increased for power. Therefore, he wanted to know if cutting off the peak would save DEMEC which in turn would result in savings for the City. Mr. Morehead asked if this would be the main key for financing the program. Mr. McCullar confirmed this was the case and restated customers would save money through the program. Additionally, Mr. McCullar expressed DEMEC would save their systems' money by avoiding future investment. He specified capital was expensive since it was necessary to pay for it, pay interest on it and sell bonds. Mr. McCullar said if DEMEC could have a program that helped them keep their peak down and reduce the amount of energy demanded by their customers, they could avoid capital investments going forward. Due to structure of the electric industry itself, Mr. McCullar stated the cost of capacity perpetually increased. The cost of transmission services [to move electricity across a transmission system] also frequently increased. Mr. McCullar restated the simple reduction by a megawatt that DEMEC needed to move across a transmission system allowed them to save quite a bit of money. Mr. Morehead thought Newark's goal as it continued to grow was to keep the total peak down; therefore, the price of electricity per kilowatt hour stayed lower effectively. Mr. McCullar confirmed this was the case and stated there were hours in the year when the demand for electricity was the highest. During peak times (i.e. the third weeks of January and July), it cost DEMEC the most money to purchase and deliver peak energy.

Mr. Morehead questioned whether Newark worked against themselves with Beasley Power Plant. Mr. McCullar emphasized working with the Beasley Power Plant was not detrimental to the City. He stated DEMEC's base continued to grow; furthermore, while they had Beasley, DEMEC invested in the AMP Fremont Energy Center. Mr. McCullar clarified DEMEC wanted to avoid investment in the next power plant. Mr. Morehead believed DEMEC would eventually pass savings along to Newark as owner-members. Mr. McCullar confirmed this was the case and stated DEMEC attempted to positively impact the climate. DEMEC wished to avoid investments in future power plants due to their production of pollutants and carbon dioxide. Mr. Morehead expressed he was surprised Newark looked at saving 0.25% savings. Mr. McCullar emphasized DEMEC started conservatively and said the first contract was for a three-year period. At the end of the contract, DEMEC would evaluate how successful they had been. If determined to be successful, DEMEC would recommend continuing the path in the future and raise the targets moving forward. Mr. Morehead thought Newark could easily obtain a savings of a couple of percentage points. He questioned whether DEMEC would cover the cost of the program. Mr. McCullar restated DEMEC would pay 100% of the cost associated with the programs. Mr. Morehead questioned whether Newark would be required to pay \$1.2 million. Mr. McCullar stated the \$1.2 million came from the DEMEC's balance sheet and savings. Mr. Morehead confirmed he would support the program.

Ms. Sierer opened discussion to the public.

Catherine Ciferni, District 2, questioned how DEMEC's program was not a replication of Energize Delaware. Mr. McCullar clarified the Efficiency Smart program was not a replication of Energize Delaware and expressed it added to it. He announced DEMEC already partnered with Energize Delaware on a number of projects. For example, DEMEC and Energize Delaware partnered together to set up LED street lighting throughout the State of Delaware. Mr. McCullar expressed the Sustainable Energy Utility was part of the Energize Delaware program. Ms. Ciferni questioned whether citizens could apply for Energize Delaware without the Efficiency Smart program. Additionally, she took issue with Mr. McCullar's statement to the effect energy would be saved if needs remained fixed. Ms. Ciferni questioned if this accounted for Newark's rapid growth; specifically, if the City's energy needs would surpass DEMEC's ability to save. She described Oberlin College [Oberlin, Ohio] as a progressive school with very progressive students. Ms. Ciferni was concerned because she thought energy efficiency did not fit into Newark's current matrix or population of student renters as was the case with Oberlin College.

Ms. Ciferni thought the Efficiency Smart program only took into account Newark's businesses and households as energy efficiency was more likely to be on their radar. She asked if the program included Low Income Home Energy Assistance Program (LIHEAP) applications for individuals in other areas. Mr. McCullar stated the program did not cover the LIHEAP program since it was a self-standing program. He restated DEMEC wanted to go in and help owners of low-income properties find a way to be more efficient in heating and cooling their homes. Ms. Ciferni believed many low-income individuals did not own their

homes; therefore, they could not be responsible for adjustments made on their homes. Mr. McCullar agreed with Ms. Ciferni and stated Newark had a very high percentage of rentals. For this reason, Mr. McCullar said DEMEC went after the homeowners, landowners and landlords to show them how to be more efficient at their properties. Landlords were the ones who paid bills for improvements; therefore, they would be more likely to participate in the program if it made their property more efficient; furthermore, increased efficiency heightened the desirability of the property. Mr. McCullar said there were many categories that would be served through the program and low-income was only one category.

John Morgan, District 1, suggested the City require by Code for windows in all new construction to be double or triple paned. He believed double or triple paned windows made a big difference in the winter and the summer in terms of energy efficiency. Dr. Morgan thought the University was concerned with the reduction of their electric bill for over a dozen years. Since 59% of the City's electric usage was attributed to industrial consumers, Dr. Morgan thought the University made up [at least] half of that number. Mr. McCullar clarified 35% of Newark's entire electric delivery went towards the University. Dr. Morgan thought the University utilized about half of the 59% of electric services for industrial customers. Since the University already had taken steps to make itself more energy efficient, Dr. Morgan questioned whether there was [much] room for further improvement. Mr. McCullar acknowledged the University took steps to become more energy efficient and announced they were a rapidly growing institution. He stated the University increased energy efficiency throughout their buildings in heating, air-conditioning, lighting and many other measures. Mr. McCullar said DEMEC assisted the University with these efforts. He described growth was a good thing as it meant people prospered; specifically, demand for a good existed and someone could make an earning or a living from selling their product. Mr. McCullar believed energy efficiency went hand in hand with growth. DEMEC could help a medium sized business reduce their energy consumption by 20%; furthermore, the business would be able to take their savings and put it back into their product. Additionally, the medium sized business would have the option to produce their product at a lower cost, making them more competitive.

Todd Ruckle, District 2, asked Mr. McCullar if DEMEC factored in the advertising costs into the numbers on savings. Additionally, he asked whether DEMEC figured out what people they could partner with to promote it to Newark's residents. Mr. Ruckle questioned whether DEMEC supplied the Christina School District's (CSD) electricity; furthermore, he asked if DEMEC provided the Efficiency Smart program [or others] to the schools to save taxpayer dollars. Mr. McCullar said the CSD had some facilities in DEMEC's service territories; additionally, DEMEC worked with those facilities to propose energy efficiency. He announced the Efficiency Smart program would allow DEMEC to work with the CSD more to provide additional savings. Mr. McCullar stated DEMEC already planned to work the Home Depot to go in their and help them sell energy efficient products. There would be discount programs where DEMEC would further subsidize the sales rate to promote the programs and savings throughout the community. Mr. McCullar said DEMEC partnered with Ronny's Garden World in Smyrna for a number of years to do the promotion of LED Christmas lights [rather than regular electrical lights]. Additionally, coupons were provided for people where they could go in to Ronny's Garden World and purchase a string of LED Christmas lights at a discounted price.

Mr. McCullar emphasized there were numerous ways DEMEC would attempt to work with local merchants in the community to help their sales. Finally, DEMEC would assist these stores to promote energy efficiency by selling the right kind of items. Mr. Ruckle suggested Mr. McCullar should provide information regarding these programs to a local board of realtors who could share it with thousands of clients in the City of Newark. He believed this program could be utilized as an added value for residents to be able to save money.

Ms. Sierer assumed Council's consensus was to move forward with the agenda item as Mr. Coleman laid out. She asked if there were any further questions or objections from Council.

Mr. Clifton thought the residents of Newark essentially were the ones who would pay for the program. He referenced Mr. McCullar's comment regarding partnering with the Home Depot in Newark; specifically, as since the business serviced other areas that were outside of Newark (i.e. Elkton, Maryland). Mr. Clifton questioned how DEMEC would be able to determine or ensure the subsidies from the program would stay inside the City of Newark. Mr. McCullar assured Mr. Clifton DEMEC would ensure the savings from the program would stay within the City of Newark; specifically, he announced they met with the store-manager in the Newark community about the product they wanted to promote. DEMEC would then tell the store-manager – if they sold a certain number or amount of the designated product to the community – they would be given a discount by DEMEC of \$0.50 off each unit. Mr. Clifton questioned how they would know whether the person who purchased the product [and received savings on it] stayed in the City of Newark. Mr. McCullar said there were several ways to accomplish this. DEMEC could require

customers as part of the promotion to bring their utility bills in with them. If their utility bills said they lived in the City of Newark, the customer would be eligible to receive the discount.

Given there were no objections from Council, Ms. Sierer closed the discussion and expressed she looked forward to the menu-list for Council to review at a future meeting.

**6. 2. ITEMS NOT ON PUBLISHED AGENDA**

- A.** Elected Officials who represent City of Newark residents or utility customers:  
None.

**7. 2-B. UNIVERSITY**

- (1)** Administration

**40:06**

Ms. Olsen greeted Ms. Sierer and Council and announced she had been employed with the University for the past five years. She welcomed staff, Council and the public to contact her and informed them her contact information was available online through the University's directory. Ms. Olsen believed it was important to facilitate communication between the University, City staff, and the public. She stated she provided the Deputy City Secretary with the University's Quick Facts which detailed the University's highlights from the past year. Ms. Olsen announced the facts and figures were available online under Institutional Research. She was unaware if the facts and figures from Institutional Research would be printed this year; however, she would provide additional information when it was available. Ms. Olsen was happy to report the University Spirit teams competed at the college national championships in Florida and brought home three national titles including the mascot. She expressed pride in the University's spirit teams for their hard work; additionally, she believed they were amazing student athletes and excellent ambassadors for the University and City of Newark.

January 2<sup>nd</sup>, 2019 marked the 150<sup>th</sup> anniversary of when the Board of Trustees and the University (formerly Delaware College) signed the agreement to be a land-grant college. This marked the establishment of the University's College of Agriculture and Natural Resources. Ms. Olsen said the past century and a half had seen amazing ground-breaking cultural and ecological research. She announced there would be special events planned throughout 2019 to celebrate these accomplishments and encouraged people to visit the botanical gardens. Ms. Olsen wanted to ensure those who were interested could contact the University's Master Gardeners for assistance and invited the audience to visit UDairy.

Ms. Sierer thanked Ms. Olsen and opened the discussion to the table.

Mr. Hamilton thanked Ms. Olsen for meeting with him and the Old Newark Civic Association (ONCA). He told Ms. Olsen she did a great job while trying to be a liaison between the City, community and the University. Mr. Hamilton did not know who Ms. Olsen's future boss would be in light of Alan Brangman's replacement; however, he asked Ms. Olsen to continue to be the City's eyes and ears in order to improve the relationship with the University. Ms. Olsen thought the University's Office of Student Conduct had been very receptive to the questions and concerns they received from the community. She expressed she would continue to work with the Office of Student Conduct in order to determine some solutions and a path forward.

Mr. Morehead asked Ms. Olsen if she looked into the Environmental Film Festival as he requested at the Council meeting on January 14<sup>th</sup>. Ms. Olsen stated the event took place at the end of February through March. She announced the festival typically occurred on Wednesdays during that time period; however, the exact dates would be shared with Council upon receipt.

Mr. Clifton asked Ms. Olsen how people could contact the University's Master Gardeners. Ms. Olsen said contact information for Master Gardeners could be obtained through the University's website and search for Master Gardeners under the search bar. Contact information for Master Gardeners was provided for each county. Ms. Olsen said volunteers were available to provide helpful information to help people identify plants as well as tell people what types of plants would be best suited for the area.

Mr. Lawhorn thanked Ms. Olsen for all the information and data she provided for Council and the public throughout the year.

**7. 2-B-2. STUDENT BODY REPRESENTATIVE: None.**

**8. 2-C. CITY MANAGER:**

**45:15**



Mr. Coleman announced the election filing deadline was Monday, February 4<sup>th</sup> at 5:00 p.m. He acknowledged there were several candidates in the audience and invited currently elected officials and incumbents to meet with him in order to learn more about the City's operations and answer questions. Mr. Coleman stated all candidates, newly declared candidates and current officials would be contacted via email regarding the offer to meet with him.

WILMAPCO's "Our Town" event was scheduled for February 7<sup>th</sup>, 2019 from 4:00 p.m. to 7:00 p.m. At the event, WILMAPCO give a presentation on the 2050 Regional Transportation Plan (RTP); additionally, there would be room for public input and feedback. The RTP was New Castle County and Cecil County's blueprint for transportation decision making for the next 30 years. Additionally, the RTP would guide DelDOT's long-term capital spending. Mr. Coleman said the event on February 7<sup>th</sup> would provide the public with the opportunity to give their input regarding DelDOT's funding priorities. Mr. Coleman pointed out that DelDOT attended a Council meeting recently and gave the presentation on the RTP. He encouraged people to review the presentation if they did not get the chance to see it previously.

**9. 2-D. COUNCIL MEMBERS:**

**46:39**

**Mr. Morehead:**

- Mr. Morehead announced he submitted papers to continue to represent District 1 on City Council.

**Mr. Hamilton:**

- Mr. Hamilton stated temperatures were expected to drop rapidly and said the wind chill would drop below 0 degrees on Wednesday and Thursday mornings. He reminded the audience to take care and do what they could to stay warm.

**Mr. Markham:**

- Mr. Markham announced everyone who had an electric or water bill had the ability to put a threshold on their account. He expressed he recently discovered he had a water leak and issue with his furnace based on the warnings and was able to catch the issues early. Mr. Markham recommended the audience to review their thresholds and be mindful of their uses.
- He said he recently saw an advertisement for the Downtown Newark Partnership (DNP) gift card at Main Street Movies 5 and questioned whether it was out of print and no longer available. Mr. Coleman confirmed DNP gift cards were no longer sold. Mr. Markham thought the advertisement should be removed. Ms. Sierer confirmed the advertisement was on the Main Street Movies 5's screen. Mr. Coleman confirmed the advertisement would be removed.
- Mr. Markham enjoyed several restaurants during Restaurant Week; however, he stated the parking voucher participation decreased at several restaurants in the area. He was curious about the participation in Restaurant Week since the policy had been changed. While Mr. Markham was not able to attend the discussion on parking vouchers, it was his general impression that fewer restaurants participated in Restaurant Week. Mr. Markham thought some of the decrease for parking vouchers was attributed to restaurants paying up front [as well as cost-sharing].

**Mr. Clifton:**

- Mr. Clifton asked Mr. Coleman for clarification regarding the status of a sign he requested for a visually impaired resident in his district. Mr. Coleman said he would ask the Traffic Committee for an update and would follow up with him accordingly. Mr. Clifton thought Mr. Coleman was in the process of working with the Public Works Department to increase the safety of the right turn on Cleveland Avenue; specifically, to make it safer for vehicles to come out of Woodlawn Avenue. Mr. Farrall did not recall seeing the right turn on Cleveland Avenue on an upcoming agenda for the Traffic Committee. Mr. Coleman thought it would be discussed at the Cleveland Avenue Task Force follow-up meeting. Mr. Farrall stated he would check to see if this was the case and would follow up with Messrs. Coleman and Clifton.

**Mr. Lawhorn:**

- Mr. Lawhorn echoed Mr. Markham's observations regarding the parking vouchers for restaurants during Restaurant Week. He received a significant amount of feedback when he was out in town on Saturday night (January 26<sup>th</sup>, 2019); moreover, he received text messages from friends, family and others to the effect restaurants definitely cut back [on the parking vouchers]. Mr. Lawhorn said it depended on an individual's outlook as to whether they considered this to be a positive or negative aspect; however, he thought it was positive for the City revenue-wise. He stated restaurants appeared to be stingier with their parking vouchers and some did not use them at all. Mr. Lawhorn expressed there were people who were unhappy with the change in policy and said businesses would have to address it moving forward.

**10. 2-E. PUBLIC COMMENT:**

51:06

Todd Ruckle, District 2, announced he only attended one Council meeting since he served on Council. He thanked Council for their service. Mr. Ruckle commended Ms. Sierer for her service and believed she did a great job as the Mayor of Newark. He announced he enjoyed serving with Ms. Sierer and thought the City of Newark owed her an unbelievable amount of applause for what she accomplished for the City. Mr. Ruckle wished Ms. Sierer well in all future endeavors. He said primary reason he attended the meeting was due to the fact he believed the unruly gathering ordinance intended to limit the number of people allowed to be at one house to 50. Ms. Sierer interjected and asked Mr. Ruckle to save his comments on this matter until later in the evening as it was scheduled on the agenda. Mr. Ruckle said he gathered from various readings something similar to the Florida-T intersection would be added to Woodlawn Avenue. He adamantly believed all the neighbors of District 2 [and the 2,500 drivers on both sides of Kirkwood Highway] strongly opposed this idea. Mr. Ruckle informed the audience he observed a car slide out of a neighborhood while attempting to merge onto Kirkwood Highway; furthermore, the car almost wrecked in oncoming traffic due to the steep slope exiting the neighborhood.

Mr. Ruckle also wanted to comment on CSD's referendum on May 14, 2019. CSD wanted to increase property taxes by 20%. He – along with Representative Paul Baumbach – attended CSD's last meeting at Shue-Medill Middle School in November of 2018. At this meeting, CSD seemed adamant to the effect they would not hold a referendum. Mr. Ruckle said CSD appeared to change their mind about the referendum within a few months and decided to go forward with it. He stated CSD expressed they wanted to paint a couple rooms and add landscaping to spruce it up. Finally, CSD indicated they wanted to give out computers. Mr. Ruckle thought this was CSD's way of fixing the district. He believed it was necessary for people to "get real". While the audience and Council may not have anything to do with Shue-Medill Middle School, Mr. Ruckle said all of Newark's residents were a part of this. He believed the buildings needed to be knocked down in order to start over. Mr. Ruckle emphasized the buildings were built when they did not have internet; furthermore, they were constructed when people believed it was possible to be nuked by the Russians. He said the buildings lacked air-conditioning and were full of lead, mold, and asbestos. For these reasons, it was unsafe for the kids. Until the CSD got real and figured out a way to consolidate their schools, they would continue to remain at half-capacity or less. Mr. Ruckle believed this was a waste of taxpayers' money. He believed Council needed to advocate for this matter because he thought it affected all of Newark's residents and constituents. Mr. Ruckle stated the CSD was dead last and was disappointed because it used to be the number one school district in Delaware. He strongly believed this needed to be Newark's number one priority; furthermore, he thought Council's voice would mean something. Mr. Ruckle restated he wished CSD would knock the schools down and replace them with community centers with schools in them. He described Newark as a city with a college in it; therefore, community centers with schools in them were necessary.

John Morgan, District 1, wished to comment on the situation with parking in the City's parking lots. Several days ago, Dr. Morgan discovered a significant undercounting of the number of vacant parking spaces in Municipal Lot #1. The count down sign indicated there were 20 available spaces when there actually 40-50 available parking spaces. Dr. Morgan heard from Katie Gifford that she observed the opposite problem where there was an overestimate of the number of vacant spaces on a different day over the weekend. He thought it was very important for City staff to get on top of the issue so the numbers displayed by the count down signs were reasonably accurate; specifically, +/- two or three would be acceptable. Dr. Morgan emphasized it was unacceptable to be off by 20-30 spaces especially if those numbers would be used for analyzing the extent of the City's shortage or imbalance in parking [between one lot and another]. He believed it was very important for the City to have accurate data before they spent millions of dollars on various solutions for a problem. Furthermore, Dr. Morgan thought it was necessary to determine if the problem was just an artifact of an inaccurate system. Dr. Morgan thought if people could afford to buy a car for thousands of dollars as well as insure it [for probably \$1,000 a year] and maintain it, they should not be concerned with an extra dollar or two for a parking voucher. One way or another, the people who owned the cars or the people who owned the restaurants should be able to sort it out between themselves.

Catherine Ciferni, District 2, found parking – whether people wished or did not wish to pay for parking – as an extension of culture of where they are. If people were from a place originally where parking always was at premium, paying for it would not be an issue for them. If people came from a place where they could park their car at home [or parking was primarily free or at a low cost], paying for parking would always be more of an issue for them. Ms. Ciferni announced she often attended Restaurant Week; however, she felt the event was not as widely marketed until later in the week this year. She did not know if the lack of advertising affected numbers this year and thought Council might want to consider rejuvenating the event. Ms. Ciferni thought Restaurant Week had been around for a while and wondered if there was a way to tie entertainment into the event or provide additional modernization to increase attendance.

11. 3. **APPROVAL OF CONSENT AGENDA:**
- A. Approval of Council Minutes – January 14, 2019
  - B. Receipt of Alderman’s Report – January 10, 2019
  - C. **First Reading – Bill 19-02** – An Ordinance Amending Chapter 2, Administration, Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware, By Sunsetting the Downtown Newark Partnership and Forming the Design Committee – **Second Reading – February 25, 2019**

**1:00:10**

Ms. Bensley read the consent agenda into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

12. 4. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None.

13. 5. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:** None.

14. 6. **SPECIAL DEPARTMENT REPORTS**

- A. General Assembly Update and Associated Requests for Council Direction – Lobbyist

**1:00:53**

Lobbyist Rick Armitage greeted Ms. Sierer and Council. He announced the Governor recently introduced his Operations Budget and Bond Bill for 2019. Mr. Armitage expressed Municipal Street Aid, Community Transportation Funds; funding for computers in police vehicles and money for Unicity were included in the Governor’s recommended budget. If the revenue projections stayed where they were, Mr. Armitage said the lobbying that would be accomplished – with Joint Finance and Grant-in-Aid – would not be as difficult as it had been in previous years.

Senate Bill (SB) 11 was introduced on January 22, 2019. Mr. Armitage expressed it was formerly called SB 257 last year [2018]. Senator Dave Sokola introduced this bill around PILOT which included the City of Newark; specifically, the amount of money that would be appropriated would also include Newark. Mr. Armitage roughly calculated the money given to Newark was [only] \$20,000. He emphasized the money would only be given to Newark if the bill passed. Mr. Armitage stated he reached out to Senator Sokola and asked what he wanted Mr. Armitage to do in order to assist. He had not yet received a response from Senator Sokola. Representative Ed Osienski would manage the Marijuana Bill. If the bill passed, Representative Osienski said he would allow municipalities to opt out if they desired. Therefore, Newark would have the ability to decide whether or not they wanted to be included. Mr. Armitage believed this factor would be one of the things that might allow it to pass along with the 17 members in Dover. There was some tension between the two caucuses which [mostly] centered around the minimum wage. Mr. Armitage did not know how this would sort itself out since they were in recess to conduct the Joint Finance Committee hearings.

Mr. Armitage met with City staff and discussed the changes to the City Charter. He acknowledged Mr. Coleman and staff were preparing [some] additional language for Council to see in resolution as the time approached to request Charter changes. Mr. Armitage articulated this would be forthcoming to Council in the next couple of meetings. Additionally, the City’s relationship with the University of Delaware was discussed in the meeting. Mr. Armitage announced he was a graduate and alumnus of the University; moreover, he worked at the University for 40 years. Despite this fact, Mr. Armitage did not feel like the University was a good neighbor anymore to the City. Over the past 10 years, he thought the University decreased the number of students that were housed on campus from 50% to 40%. Furthermore, the University increased undergraduate enrollment by almost 3,000 students. Mr. Armitage said the University shifted the burden of housing those students to the City of Newark. For these reasons, Mr. Armitage believed the increased burden of student housing on the City was one of the reasons the Unruly Social Gathering Ordinance would be discussed later in the evening with NPD. He expressed the University was rated the #1 party school in the nation and created real problems in the City’s neighborhoods. Mr. Armitage was unsure how Council should address the issue; however, he thought the City did not have the leverage or relationship with the University to assist in this matter.

Mr. Armitage acknowledged there had been positive conversations with Alan Brangman and the City in the past week or so. However, he was unsure how long Mr. Brangman would stay at the University. Mr. Armitage restated personal relationships between the City and University were very valuable in order to get things done. He was unsure if Mr. Brangman was in the position to indicate the last time subvention increased; specifically, he thought it increased around 2007. The burdens continued to increase for the City of Newark in the costs associated in dealing with some of the spin-offs of the University expansion.

An idea Mr. Armitage discussed with staff was for the PILOT funding to be considered as a reduction in funding from the University. He thought the PILOT funding from the University could be shifted to the City. Another idea was for a head tax to be implemented on students. Mr. Armitage was unsure if either of those two ideas appealed to Council; however, he thought they could be part of a later discussion that evening. Ms. Sierer clarified this discussion could potentially take place on a later agenda. Mr. Armitage announced staff discussed the fact the University was exempt from the Real Estate Transfer Tax (RTT) when they either acquired or sold property; furthermore, the seller or buyer were exempt from RTT. Mr. Armitage thought the City would not be able to change [legislatively] the University's tax-exemption status; however, the City might be able to change the other party's tax-exemption status. He stated Dickinson was the most significant University sale and expressed the City would not be able to participate in its RTT. Mr. Armitage asked Council for guidance regarding whether they wanted him to get involved with the legislation in order to affect change. Ms. Sierer asked Mr. Armitage if Council would be provided with a chart with the bills like they did in previous years. Mr. Armitage confirmed he would provide the chart and expressed there were only two bills. He announced he would send a copy of the chart to the City Secretary later in the evening. Ms. Sierer told Mr. Armitage it was important to receive that information when the packets were sent out and requested it seven days before the next Council meeting on February 11<sup>th</sup>. Additionally, the information needed to be made public on the City website.

Ms. Sierer acknowledged there may be updates before the next Council meeting and clarified Mr. Armitage could provide those updates on February 11<sup>th</sup>. Mr. Armitage said there were other items he would monitor which would be included in the table. Ms. Sierer believed upcoming discussions regarding Charter Changes and priorities for the City would occur at the table in the near future. She thought staff could address the items that were discussed with Mr. Armitage at a future Council meeting.

Ms. Sierer opened discussion to the table.

Mr. Hamilton told Mr. Armitage he fully supported more communication between the University and City. He clarified he wanted communication to be open and public. If Alan Brangman did not have the power to assist with some of the steps moving forward, Mr. Hamilton believed President Assanis or the Board of Trustees could be contacted. Mr. Hamilton informed the audience he attended a meeting with Representative Paul Baumbach where he gathered some of the legislative members – who were big supporters of the University and its independence – lost their elections. For this reason, Mr. Hamilton thought it might be time to apply legislative pressure or at least talk about something along those lines. If Mr. Brangman was unable to assist or get things done, Mr. Hamilton said it was not a dead end. His personal experience with the Board of Trustees was to the effect they really did not take Newark into account when they made their decisions. Mr. Hamilton stated Stuart Grant personally announced this was the case and expressed he would make changes. Unfortunately, Mr. Hamilton said Mr. Grant was no longer with the Board of Trustees. He thought a good path forward was to begin a better relationship with the Board of Trustees members. Mr. Hamilton announced some of the Board of Trustees members were politically appointed; therefore, they would be able to discuss legislative issues as well as the legislators that represented the City of Newark. Mr. Hamilton restated it was important for the University and City to improve communication. He believed communication and improved relationships were ultimately where the power lied on larger issues.

Mr. Hamilton acknowledged the University was opposed to a head count. Additionally, he thought the University might wait to see if the City wanted to nit-pick on every single issue or if they would engage in an open conversation to bring light to the real needs of the City. He stated budget issues also could be addressed and restated the City and University could work together. Mr. Hamilton restated the need for discussions between the City and University on this matter needed to be open to the public. He thought part of this would be accomplished by Council getting together and improving communication with each other if meetings took place. Mr. Hamilton expressed he would share information with Mr. Coleman in order to [hopefully] make the communications available to the public. He did not think the City and University's relationship needed to be adversarial; furthermore, he described the relationship with the University as two steps forward, one step back. Mr. Hamilton said some of the suspicion between both parties needed to be eliminated on several levels. He announced there were other issues that needed to be dealt with and restated the City and University needed to be better neighbors. Mr. Hamilton believed the City needed to go around people who stood in the way of improving the relationship with the

University. He hoped City staff, Council, Mr. Armitage and the University stepped up to get communications out in the open and end bickering. Mr. Hamilton was open to help from legislators.

Mr. Armitage said it was his personal experience at the University that some of the decisions the City would like to happen almost were required to occur at the trustee level. He thought President Assanis probably could increase subvention; however, there was a Board of Trustees resolution years ago which limited the amount [for subvention]. Mr. Hamilton thought the people from that time of that resolution were no longer around. Mr. Armitage acknowledged this statement and informed Mr. Hamilton the resolution was still in place. Therefore, the conversation would need to occur at the trustee level. Mr. Armitage echoed Mr. Hamilton's statements to the effect conversations needed to occur with the University and Board of Trustees. Mr. Armitage thought it was difficult to have these conversations between both parties due to the turnover level at the University and the changing members of Council.

Mr. Morehead agreed with Messrs. Armitage and Hamilton with the exception of tone. He thought Mr. Hamilton hit the nail on the head regarding the choice of words and the way they were spoken. He echoed Mr. Hamilton's statement to the effect the University and City were partners and believed there were opportunities to treat each other better. Mr. Morehead stated the City and University could openly exist and asked everyone to be careful with their wording. He said he would fully support a student head tax for similar reasons as the hotel tax which the City implemented. The hotel tax was created because the City recognized what visitors cost the City in terms of repairs and infrastructure. For these reasons, Mr. Morehead thought it made sense to tax students as they were technically longer-term visitors for the City. He believed it would help even out the concept the University did not house their own, which cost the City.

Mr. Markham thought the important thing for Mr. Armitage to do regarding PILOT was to get his foot in the door. He believed this was previously the big issue for the City in terms of how they would be added to it. Mr. Markham thought money negotiations would come later. Additionally, he thought the State previously indicated there was not enough money; however, Mr. Markham did not think this was the case for the 2019 at this point in time. He expressed the State appeared to have more money available than usual. Mr. Armitage agreed and confirmed there was an additional \$148 million for the Governor to work with. Mr. Markham remembered in 2006 when Mr. Armitage was his constituent and also represented the University; specifically, he recalled a conversation during that time regarding a per-student fee. Mr. Armitage confirmed this was the case. Mr. Markham suggested returning to the idea and conversation of implementing a per-student fee was important. He agreed with Mr. Morehead's point to the effect the City had a lodging tax. Mr. Markham believed a per-student tax would have to be written very carefully since students were considered semi-permanent residents. If the University wanted to step-up with the student fee. Mr. Markham thought there would be a domino effect; specifically, costs of services would come down. If the costs of services decreased, it would be beneficial for the University, City, and residents of Newark. Mr. Markham believed these measures would ultimately increase Newark's attractiveness and make it a more desirable place to live.

Mr. Armitage believed City staff would share additional information going forward and expressed the University had a variety of fees for students already. There was a student center fee, health fee and any others. The per-student tax if implemented would be passed along to the students as was the case with other fees. Mr. Markham thought the student center fee was interesting since students voted it in for future students. Mr. Armitage clarified the student center fee was bonds; therefore, the defeasance at some point for the bonds would be over and the fee would decrease. Mr. Hamilton thought it was refreshing Mr. Armitage came to the conclusion things needed to change and believed it was a good sign.

Mr. Clifton agreed a student head-tax should be explored; specifically, if it could be justified there was a fee just for the student center which they were not obligated to use. He thought it would be hard for the University to argue the head tax; specifically, regarding the effect the students and student center impacted the community. Mr. Clifton remembered when the University moved from Perkins Student Center to Main Street. When it was decided Starbucks would be at the new bookstore's location, Mr. Clifton argued Starbucks was not located in the old bookstore and was not educationally based. For these reasons, Mr. Clifton thought Mr. Armitage spoke to the University and increased the subvention by \$7,000. He announced the University gave them \$60,000 when they increased the number of police officers by three. Mr. Clifton realized this would be a stretch in the current time. Additionally, he reminded the audience when the City gave over the parking meters by the Old Hullihen loop. Mr. Armitage said the University asked the City to remove several parking meters on South College Avenue and Amstel Avenue. Mr. Clifton believed it was time for the City and University to have an open conversation. Mr. Armitage thought the real question for Council was who they wanted him to communicate with at the University, promoting a relationship and ongoing conversation. While he appreciated Ms. Olsen's efforts, Mr. Armitage said she was not at the appropriate level to have these conversations with; therefore, it was

necessary to speak with someone higher in the University's administration. Mr. Clifton believed Ms. Olsen shared comments and feedback with the University like Mr. Armitage did; however, he thought the information and efforts died.

Mr. Clifton thought Mr. Coleman arguably would be equivalent to the President of the University and the Board of Trustees were equivalent to Council. He believed a good starting point was to consider the City and University as co-equals. Furthermore, Mr. Clifton thought the Mayor and Council were responsible for 34,000 people whereas the University and Board of Trustees were responsible for 18,000-20,000. He firmly believed the burden of communication was on Council. Mr. Clifton stated he spoke to an individual who was the President of the University of Iowa in Bloomington; additionally, he only heard positive accolades with how City Council in Bloomington related to the community and University. Mr. Clifton wanted Newark and the University to get to this point and encouraged them to come together.

Mr. Lawhorn echoed Mr. Markham's point to the effect he wanted Mr. Armitage to get Council's foot in the door with the PILOT tax. He asked for the total dollar amount of the program. Mr. Armitage believed it was \$3 million. In the new bill, Mr. Armitage stated they capped the program at \$3.9 million. Mr. Lawhorn looked forward to improvement between the City and University's communication in the future. While he acknowledged the relationship was not where they wanted to be [at the higher levels], Mr. Lawhorn personally thought it was necessary to determine who the appropriate parties were to talk with at the University. Internally for the City, he suggested they needed to come together to determine a clear strategy on what they would ask from the University. Mr. Lawhorn believed the City needed to be aligned as a unified front when they partnered with the University. He hoped City staff [through the City Manager] would regularly communicate with the University. When necessary, Mr. Lawhorn suggested appropriate departments could work the University as appropriate (i.e. the Planning Department working with University staff on housing related matters). Mr. Lawhorn thought the relationship building for the University and City would strengthen over time. While politicians would come and go, Mr. Lawhorn restated it was important for City staff to establish a consistent, solid relationship with the City.

Mr. Lawhorn thought it was a good idea to have continuous communication [as was the case with Mr. Brangman and others] as the backbone and cornerstone of the University's relationship. Semi-regular meetings with Council and University leadership could occur in a public forum to bring the progress that was made to light. Public comment would be included in these meetings. Mr. Lawhorn restated his belief it was possible for the City and University to solidify a good relationship. Within that, Mr. Lawhorn would support a head-tax or fee. However, he believed communication needed to be established before moving forward. Mr. Armitage told Mr. Lawhorn the current appropriation was \$3.88 million whereas the new bill showed \$3.9 million. He restated it was important to open the door moving forward.

Ms. Sierer opened discussion to the public.

Bob Anderson, non-resident who lived in Covered-Bridge Farms, announced he was very active in the City and attended St. John AME church. The reason Mr. Anderson wished to comment on this matter was due the fact the State of Delaware treated the University of Delaware as both a private and public entity. Mr. Anderson thought the University had many powers even the Board of Trustees and Council were unaware of. Mr. Anderson stated St. John AME church had an experience when they attempted to get the RTT back because they were a religious institution. Legal counsel advised Mr. Anderson the church should be able to get their RTT back. Opposing counsel said the church was unable to get the RTT back since State law mandated the University was the only institution or person not required to pay RTT.

John Morgan, District 1, wished to follow up regarding comments made by Mr. Armitage and Council. On November 26<sup>th</sup>, 2018 at a Council meeting, Dr. Morgan explained what he considered to be big differences between how City Council, the City's Boards and Commissions and the Board of Trustees operate. At this time, [which occurred soon after sudden announcement of Christiana Towers closing next summer] he suspected – but did not know – the decision to close the towers was made at a meeting of the Board of Trustees Grounds and Buildings Committee [in early November]. The minutes from the Grounds and Buildings Committee meeting were published as part of the meeting materials for the Board of Trustees semi-annual meeting in December of 2018. To Dr. Morgan's surprise, there was no record of the Christiana Towers closing at that meeting or anywhere else in the 100 pages of reading materials. He did not understand how some of these decisions were made as well as who made them. Dr. Morgan questioned if the Board of Trustees were involved or if the decisions were made solely in Hullahen Hall. He thought the fundamental reason for this was due the fact the University had an extremely broad exemption from the Freedom of Information Act. Dr. Morgan claimed this exemption was unlike any other major state-supported University in the United States of America. Until there was a level of transparency into the University's operations, Dr. Morgan stated the public would continue to be baffled and surprise by some of the decisions which had an impact on the City's neighborhoods.

Dr. Morgan thought the fundamental reason why there were growing problems in the City of Newark with out of control parties recently was due to the fact the University relaxed its admission standards in 2007. As a result, the University admitted many more undergraduates. Dr. Morgan said this was reflected in the numbers the University reported to U.S. News and World Report over the past dozen years. He thought it might be fine to admit these extra students if the extra tuition revenue went towards teaching them in relatively small classes. Instead, as one also could observe from numbers in U.S. News and World Report, the University now taught substantially larger classes. Dr. Morgan expressed large classes made it easier for kids to skip class. He stated the University appeared to offer substantially fewer small classes. Dr. Morgan believed this led to the reduction and fall of the University's rankings. According to Dr. Morgan he thought the right thing for the University to do was to put the extra tuition revenue into teaching the undergraduates in smaller classes. This would keep the undergraduates busy with homework and would help them stay out of trouble. Dr. Morgan believed this would solve most of the problems experienced in the City's residential neighborhoods.

Caitlin Olsen, University of Delaware, reminded the audience she was the one who updated Alan Brangman and President Assanis; furthermore, Ms. Olsen announced she was responsible for addressing the Board of Trustees about what Council and the City needed as well as what should be done to make their relationship better. She announced she made a lot of headway over the last few years with the City and University. Ms. Olsen vehemently objected to the statements made by Council and others and described it as a sneak attack in an inappropriate manner. She advised Council and staff she would be able to help them if they went about it in a civil and relaxed manner. Ms. Olsen restated it was imperative to discuss what the City's needs were in order to figure out how the University could help them in several ways. She restated the University's ability to help the City and emphasized it was necessary to provide her with ideas and information. Ms. Olsen thought Council should not have one-off conversations because Council was not in agreement on anything. Ms. Olsen told Council to come to her with an actual proposal she would be able to take to the people in power. She expressed the higher-ups of the University were listening and said they heard her when she told them something needed to be done. Ms. Olsen requested Council give her the same respect she gave them and asked them to talk to her to move forward.

Ms. Sierer echoed Ms. Olsen's statement to the effect she thought the City and Council had taken many steps backward on the discussion regarding head-tax. She announced the University of Delaware heard that information at Legislative Hall and did not hear it from anyone in City Hall or Council. In order for there to be a trusting relationship and partnership, Ms. Sierer advised it was not possible for it to occur at Legislative Hall. Ms. Sierer firmly believed the City needed to have conversations with the University's President and vice versa. However, Ms. Sierer did not think the current environment would be receptive if the University heard things at Legislative Hall from other people. Ms. Sierer said she was very disappointed this occurred. She heard this information from the Provost, Alan Brangman and Jeff Garland who were astounded it occurred at Legislative Hall. Ms. Sierer thought the information should have come from Council or City staff. For these reasons, Ms. Sierer thought the City needed to think long and hard about how they would develop the relationship with the University to be able to respond and work with them. Ms. Sierer believed the relationship would improve as Alan Brangman would be gone at the end of the school year and it would be many months before they hired a replacement. Aside from the work Ms. Sierer did with the University, Ms. Sierer believed they were starting from scratch. Ms. Sierer thought Council needed to have a conversation about how and what they would discuss with the University. Furthermore, Ms. Sierer said they needed to determine what manner as well as where the discussion would occur. She restated it was inappropriate for the discussion to occur at Legislative Hall and hear that it occurred from the lobbyist. Ms. Sierer stated this method would not bring the University to the table.

Mr. Hamilton objected and said he asked everyone to talk about their relationships with the University as well as inform Council about those conversations. Mr. Hamilton restated his previous comments to the effect he thought they should talk more about the conversations they had as well as who they spoke with. Ms. Sierer agreed with this statement. Mr. Hamilton thought it was interesting when Council heard nothing; moreover, he said it created a challenge and made it difficult for people to know what information was discussed. Mr. Hamilton said Mr. Brangman had not spoken to him in months. He thanked Ms. Olsen for being an open ear and restated Council needed regular updates on conversations between the University and Board of Trustees. Ms. Sierer acknowledged this fact and restated they needed to determine a mechanism or method to provide updates. Additionally, Ms. Sierer was aware Mr. Hamilton had conversations with the University and did not provide updates to herself or Council. Mr. Hamilton denied this statement and said he put the information about his conversations in his newsletter. He firmly denied wanting to ambush anyone and restated he continued to ask for open conversations and dialogue back and forth. Mr. Hamilton said he appreciated all efforts Ms. Olsen took on Council's behalf and acknowledged she occasionally was put in a tough position. He reiterated there would be multiple conversations with different layers which needed to occur and believed no-one should be the sole conduit of conversation with the University.

Mr. Hamilton clarified he did not wish for anyone to attack each other and stated he was a proud graduate of the University. He expressed his support for the University was evident and displayed this by wearing University of Delaware baseball caps. Mr. Hamilton stated he loved Newark and the University and could not figure out where the communication problems occurred. He encouraged everyone to be adults and have a better line of communication. Mr. Hamilton announced he and other Council members were previously not invited to the Sustainable Cities conference with the University. While he thought this was an oversight, Mr. Hamilton appreciated the fact they were now invited to these things. Mr. Hamilton thought it was beneficial since the Newark Partnership was coming together. He thought the process was two steps forward and one step back; however, he would speak up when it happened, and the City was not kept up to speed.

Mr. Lawhorn thought Ms. Olsen made the most important statement to the effect communication could occur; however, the most critical aspect was the fact the Council did not agree or had not gotten together to say what they wanted. Mr. Lawhorn said it was Council's responsibility to have a clear message of what they wanted to accomplish; furthermore, Council needed to figure out what they wanted to communicate to the University. He announced how Council communicated was irrelevant until they figured out what they wanted to communicate.

There were no further comments from Council or the public.

15.     **6-B.     RESOLUTION NO. 19-\_\_ : (A) APPROVING ISSUANCE OF UP TO \$1,300,0000 PRINCIPAL AMOUNT GENERAL OBLIGATION BOND, SERIES 2019A-WPCRF TO THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL, THE DELAWARE WATER POLLUTION CONTROL REVOLVING FUND, AS REGISTERED OWNER, AND (B) APPROVING ISSUANCE OF (1) UP TO \$3,000,000 PRINCIPAL AMOUNT GENERAL OBLIGATION BOND, SERIES 2019B-DWSRF, (2) UP TO \$1,000,000 PRINCIPAL AMOUNT, GENERAL OBLIGATION BOND, SERIES 2019C-DWSRF, AND (3) UP TO \$550,000 PRINCIPAL AMOUNT GENERAL OBLIGATION BOND, SERIES 2019D-WSRF TO THE DELAWARE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, THE DELAWARE DRINKING WATER STATE REVOLVING FUND, AS REGISTERED OWNER, TO FINANCE CERTAIN DRINKING WATER AND WASTEWATER PROJECTS OF THE CITY OF NEWARK, AS EACH SERIES OF BONDS WILL BE SOLD BY PRIVATE SALE AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT WITH RESPECT TO EACH SERIES OF BONDS WILL BE SOLD BY PRIVATE SALE AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT WITH RESPECT TO EACH SERIES OF BOND; (D) DETERMINING THAT EACH SERIES OF BONDS WILL BE SOLD BY PRIVATE SALE AND AUTHORIZING EXECUTION OF A FINANCING AGREEMENT WITH RESPECT TO EACH SERIES OF BONDS; (E) PLEDGING THE FULL FAITH CREDIT AND TAXING POWER OF THE CITY; AND (F) AUTHORIZING OTHER NECESSARY ACTION**

**1:37:27**

Mr. Filasky summarized item 6-B was for the approval to move forward with the closing of the loans for four of the projects which were voted on in the referendum. The four projects were as follows:

1. The Sanitary Sewer Study and Rehabilitation;
2. South Well Field Water Treatment Plant Upgrade;
3. Water-Main Replacement project, and
4. The SCADA upgrade project.

The interest rates were lower at 2.489% versus the 3% that was budgeted, saving over the course of all four loans (three for 20-years and one for 10-years) roughly \$336,000 over the life of the loans. Mr. Filasky announced individual contracts were being considered for most of these loans; therefore, it would return to Council. He clarified the resolution tonight was strictly the approval for PWWR to close on the loans; therefore, the money would not be spent just yet. Mr. Filasky said he and Mr. Del Grande would answer questions at this time.

Ms. Sierer opened discussion to the table.

Mr. Markham clarified if the matter tonight was for the approval for the loans and that all the projects would come back to Council for final approval. Mr. Filasky confirmed most of the projects will and expressed some of the projects were already approved by Council and were for engineering services as part of a larger contract. He clarified there was an engineering consultant on board to complete the Sanitary Sewer Study and Repair. If contractual work was determined necessary to do construction in the field, Mr. Filasky said it would come back to Council according to purchasing guidelines.



Mr. Morehead thought the interest rate was supposed to be 2%. Mr. Filasky clarified 2% interest was only for the Rodney Project as it was a special interest rate. Mr. Coleman said the 2% interest rate was through the end of 2017 and expressed it was necessary lock in the 2% rate at that time. He stated the rate after 2019 was indexed to the Municipal Bond Market; therefore, some percentage less of the Municipal bond yield. When they went through in December, Mr. Filasky announced the interest rate was 2.489%. He believed there would be another rate of 2.15% would be presented at the next Council agenda available to him. Mr. Filasky said the rate trimmed down ever so slightly; however, competitive bids occasionally came out such as Rodney. Additionally, the Municipal Bond Market occasionally had additional money or funding to lower interest rates. Mr. Morehead questioned whether all funding for the Safe Drinking Water Revolving Fund bonds would be lumped together. Mr. Filasky announced the bonds would be closed at one time; however, they may or may not sell individual bonds. Mr. Morehead questioned how it would appear in terms of debt in the budget as he thought it was hard for the layman to distinguish for each topic. Mr. Morehead thought the names should be called something other than DWSRF. Mr. Filasky clarified there were labeled A, B and C for DWSRF (Series 2019 A, Series 2019 B and Series 2019 C).

Given there was no public comment, Ms. Sierer brought discussion back to the table.

Ms. Bensley read the resolution by title into the record.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: TO APPROVE THE RESOLUTION AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

#### **(RESOLUTION NO. 19-C)**

#### **16. 6-C. DISCUSSION AND POTENTIAL COUNCIL DIRECTION REGARDING THE UNRULY SOCIAL GATHERING ORDINANCE – NPD**

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**1:45:04**

Sgt. D’Elia announced he wished to gather as much information and feedback as possible in order to consider adopting an Unruly Gathering Ordinance in the City limits of Newark. He informed the audience research in this matter began in September of 2018 after a resident in town suggested it to him. The resident made this suggestion while Sgt. D’Elia responded to a party at 2:00 a.m. Sgt. D’Elia reported there were a bunch of people who stood in the street and caused problems for the NPD after the party disbursed. The definition and language NPD utilized for the ordinance was similar to what was utilized at Towson University in Baltimore County, Maryland. Sgt. D’Elia expressed Towson’s ordinance was successful; therefore, NPD wanted to replicate their success in the City of Newark. Unruly Gathering Ordinances also were successful in cities such as San Diego, Tucson as well as others in the Midwest. Sgt. D’Elia stated an “unruly gathering” would be defined as four or more people at a residence or private property where three or more public nuisance behaviors are occurring. Unruly behaviors were not necessarily illegal; however, they were behaviors that disturbed the community itself. Sgt. D’Elia said it would be necessary to go through some of the nuisance behaviors before someone before citing them with an unruly gathering. Nuisance behaviors were as follows:

1. Alcohol is illegally provided to someone under 21;
2. Persons under 21 are illegally consuming or possessing alcohol;
3. Alcohol is readily available for consumption by guests;
4. Noise beyond the property boundary. The nuisance behavior still occurs, even though NPD used a warning system during the day (Citations were not given during the day unless there was a warning in place within 60 days. NPD cited this behavior from 9:00 p.m. to 7:00 a.m. warning had been given within 60 days. People could still be cited for unruly gatherings if they received this citation along with two other nuisance behaviors);
5. Disorderly premise violations;
6. People on the roof;
7. Over 150 people present without a permit (Violation of not getting a permit for a gathering of this size);
8. Obstruction of public rights-of-way by crowds (This was recently observed with Ride Share where people did not disburse and leave these gatherings. People waited for Ubers, blocked side-walks

and Uber drivers disturbed neighborhoods with loud radios. Traffic problems occurred on streets that were one-way in both directions);

9. Public drunkenness (Extreme intoxication where someone walked away [or barely walked away] from a house. The individual(s) walked with someone [or was carried by someone] and was barely able to function on their own. Over service issues with restaurants could occur, regardless of someone's age);
10. Assaults, fights or other disorderly conduct;
11. Criminal mischief (Defined in the City Code as damaging someone else's property that doesn't belong to you. This happened when neighbor's property was damaged as a result of a large crowd's dispersal);
12. Public urination;
13. Littering (Usually handled by Code Enforcement in collaboration with NPD);
14. Drug use or sales (Illegal use of drugs and places that turned into a mini rave);
15. Trespassing (People often cut through adjacent yards when leaving a party when NPD disbursed it); and
16. Any other conduct that threatens the health or safety of the public.

Sgt. D'Elia said the attempt of the Unruly Gathering Ordinance was to try to prevent binge drinking, alcohol overdoses, assaults/sexual assaults and other detrimental behaviors which hurt people. He expressed people could end up dying at some of the large parties and believed it was a well-known fact. Sgt. D'Elia stated such conduct disturbed the good and quiet order of the City; specifically, he announced this catch-all was similar to Disorderly Premise. Disorderly Premise was defined as something that disturbed people if there was something that disturbed people in a neighborhood [that would be unlawful]. Sgt. D'Elia thought the Unruly Gathering Ordinance was similar to Aggressive Driving. Aggressive Driving was defined when someone had three violations that occurred within a quick, rapid succession of each other. When an officer observed all three violations at once, they were able to cite the individual with Aggressive Driving. Sgt. D'Elia said this was similar to if he observed someone run a stop sign while driving down the street. If the individual began to tailgate someone and Sgt. D'Elia observed speeding, there were three behaviors that were observed to be aggressive. Therefore, the individual would be cited for all three behaviors and Aggressive Driving. Sgt. D'Elia said this was similar to the Unruly Gathering Ordinance; specifically, individuals would be cited for individual nuisance behaviors as well the Unruly Gathering Ordinance.

Sgt. D'Elia announced the Unruly Gathering Ordinance carried a higher penalties and fines – as far as community service hours – that were built into it. He believed the community service hours would act as more of a deterrent than fines based on the research they had. Sgt. D'Elia announced people responsible for hosting the party were defined as the people who hosted the party; moreover, they were present on scene at the gathering, residence or building. These individuals allowed the behavior to occur. Sgt. D'Elia clarified the people responsible for the gatherings were not only limited to those on the lease and could extend into organizations [that might be hosting the party/gathering]. Organizations were referred to as social clubs or teams in this instance. Sgt. D'Elia announced these occurrences happened on a pretty regular basis.

The first offense would be a \$500 fine along with 20-hours of community service. This was similar to what Towson implemented in Baltimore County. For the second offense, there would be a \$1,000 fine plus 32-hours of community service. The third or subsequent offenses resulted in a \$1,500 fine along with 48-hours of community service; moreover, there would be a 24-month lookback by NPD. The lookback would identify trends to observe whether the house continued to be a problematic nuisance property from one year to the next. Sgt. D'Elia believed the lookback would combat the issues with the residents themselves to address the problem. He announced Towson and other jurisdictions did something interesting; specifically, there were fines built into the ordinance for landlords. Sgt. D'Elia said they removed the fines for the landlords in Newark's draft of the proposed ordinance. NPD decided to replicate the success experienced with the Special Use Permit (SUP) point system; moreover, the success was attributed to NPD's partnership with the restaurant owners. Sgt. D'Elia stated NPD wished to partner with the landlords themselves. The next step after tonight was to review the feedback and approach the landlords to partner with them on the Unruly Gathering Ordinance.

For a landlord which allowed behaviors to happen, the first offense would be a written warning. Someone in the NPD's Special Operations Unit (SOU) would draft a letter to the landlord and let them know what happened. Landlords would be able to talk to NPD or meet with them upon request. The second offense would be very similar to the mandatory meeting with the SUP. NPD would request the property owner to meet with the City Solicitor, SOU and the Planning Department and discuss with them [at that point] how to go about fixing the issue in the future. This would help to ensure there were no future issues at that residence. If there was an absentee landlord who declined to participate in the

meeting, NPD would utilize what Towson implemented as a third offense. The third offense would be the possible suspension or revocation of a rental permit. Sgt. D'Elia clarified this would be for an extreme case and expressed the NPD point system had been in place for a couple of years now. He stated there had only been one restaurant in the past few years where there was a problem. Sgt. D'Elia restated the intent was for the Unruly Gathering to experience similar success to the SUP. He restated the 24-month lookback was necessary to observe trends in behavior; furthermore, it was to ensure future problematic organizations or violations did not occur year after year.

Sgt. D'Elia announced the defense was set in the ordinance for the landlords; specifically, landlords would be able to talk to the NPD and defend themselves. The penalty for the landlords would be the loss of their rental permits. Since this was the case, landlords could defend themselves by telling the NPD they did not authorize the large or unruly gathering, know about it or participate in it. These statements – coupled with proving they evicted the problem tenant(s) [or were in the process of evicting them], would protect landlords from losing their permits. Sgt. D'Elia expressed that proof tenants filed court proceedings to evict problematic tenants would assist to protect landlords. If tenants caused such a problem to the effect the letter or meetings did not work, landlords should take steps to ensure they partnered with NPD to move forward. Sgt. D'Elia said the Unruly Gathering Ordinance could set higher fines – coupled with community service – to deter people from hosting loud and unruly gatherings. He reiterated the community service aspect was a key part of the ordinance. Sgt. D'Elia stated binge-drinking, alcohol overdoses and numerous other crimes that occurred at these locations. Partnership between NPD and the landlords – when tenants hosted or permitted these gatherings on their property – would hold people accountable. For landlords who did not cooperate, failed to act upon a notification or did not comply with mandatory meetings (regarding the nuisance locations themselves) would ultimately be held accountable. Sgt. D'Elia announced the ordinance would reduce the need for NPD to respond multiple times to a residence for the same exact issue; furthermore, it would free up police resources to service other areas in the City that needed it. Finally, Sgt. D'Elia said the ordinance would improve present laws that might have issues that were unable to be addressed at the moment. Policies and practices would be improved to help NPD deal with the nuisance locations themselves.

Ms. Sierer thanked Sgt. D'Elia and opened discussion to the table.

Ms. Sierer believed it was very worthwhile to review this matter; specifically, in order to present it to Council in ordinance format. She thought the landlords had not been included in this conversation and believed it was very important for them to be. Ms. Sierer asked Sgt. D'Elia to reach out to the Newark Landlord Association (NLA). She thought other landlords should be a part of the conversation as they had a lot of experience in the areas that were mainly impacted by unruly gathering issues. Ms. Sierer wanted to receive the landlords' thoughts, ideas, and concerns in order to ensure they were onboard with ordinance as well. She questioned how NPD would define community service; specifically, how they would come up with what community service should be and if it would be with Parks and Recreation or other organizations. Finally, Ms. Sierer wondered what mechanism would be utilized to track community service. Ms. Sierer also requested additional information on where or how NPD would select or determine the locations for community service.

Mr. Hamilton thanked Sgt. D'Elia, NPD and Mr. Coleman for their efforts. He expressed he met a couple of times with them regarding this matter. Mr. Hamilton emphasized the Unruly Gathering Ordinance referred to a civil act. He announced the matter was discussed with Ms. Olsen from the University as well. Mr. Hamilton clarified the intent of the ordinance was not to trap every University student and acknowledged there would always be small parties. He announced the intent was not to ruin students' entire lives. Mr. Hamilton announced the penalties were designed for the parties that were repetitive, got out of hand and negatively impacted the neighborhood. He restated Sgt. D'Elia's prior statement to the effect they would work with the landlords; additionally, he announced the public would be included in these conversations. For this reason, the item was placed on Council's agenda tonight as a conversation. Mr. Hamilton said this typically wasn't the case with ordinances as there typically was a First Reading. People were not permitted to comment on items for First Reading. At the Second Reading, people often commented and substantial changes were made. This often led to a longer process to get the ordinance approved as they were required to start from the beginning if changes were made.

Mr. Hamilton thought Council discussed having conversations about changes prior to First and Second Reading. He restated there were many smart people in the City of Newark. He believed this method provided a way to introduce the proposed ordinance to the public and stated there would be more meetings with landlords as previously mentioned. Mr. Hamilton emphasized this provided the public with an opportunity to give feedback. He restated the repeat offenses were required to get on the list. Mr. Hamilton believed the University would prefer community service as opposed to arresting their students and putting them in jail. He thought there was a lot of work put into the draft and believed there

was work that still needed to be done to bring it forward. Mr. Hamilton noted Sgt. D'Elia did a huge amount of work in this matter. He said changing the culture was one of the things they wished to change; specifically, regarding what University students could and will do to the neighborhoods. Mr. Hamilton acknowledged the number of incidents in Towson decreased from 51 to 12. While students still partied, the data revealed they partied in smaller events. Mr. Hamilton thought the evidence from Towson displayed individuals who were of legal age to consume alcohol went to businesses in the area. He thought this would help Newark's businesses and announced students did not want to receive huge fines.

While it would not be an instant change, Mr. Hamilton hoped to get the University to blast the information out through their communication systems. He thought portals for students should be utilized to ensure they understood the information. Additionally, Mr. Hamilton suggested officers from NPD and UDPD could talk to students at orientation and let them know about the ordinance. He said parties were significantly different these days than they were when he attended college. Mr. Hamilton stated parties could go from four to 300 people in half an hour. He announced Ubers lined up delivered people in mass quantities. Texting also increased the attendance at parties as it helped them know where they took place. Mr. Hamilton thought students would go from one party to the other. According to Mr. Hamilton, he thought the NPD used an enormous amount of time playing whack-a-mole by going from one party to another. For these reasons, residents often wondered why NPD appeared to be unresponsive. Mr. Hamilton reiterated the large number and size of these parties made it difficult for police to respond to all concerns in this matter at one time. There often were five parties occurring at the same time. He said officers went around to each party in order to determine which was worse; specifically, in order to determine what party would be handled next.

Mr. Hamilton believed the students in these areas where the parties occurred typically did not care that they inconvenienced the neighbors and City. He thought students collected money at the door for their parties and were able to pay the City's current small fines. Mr. Hamilton thought students believed they would not get evicted; additionally, Mr. Hamilton said he spoke with students who laughed at some of the City's ordinances. He expressed the University had 20,000 or more people and clarified most of them were really good kids. However, the people who held these large gatherings were [almost] professional party folks. Mr. Hamilton hoped the ordinance would provide a few more arrows in the City's quiver to help the neighborhoods regain their quality of life. He announced it was really difficult to live in some of the City's neighborhoods. Mr. Hamilton believed issues with parties did not happen in Mr. Markham's district. Mr. Markham informed Mr. Hamilton they did in fact have issues in District 6. Mr. Hamilton reiterated his appreciation for all the effort that went into the ordinance. He thanked the public for attending and looked forward to their feedback. Mr. Hamilton reminded the audience it was a work in progress. He hoped everyone would get on board and reiterated the intent was to help the City's neighborhoods and regain the quality of life in Newark.

Mr. Morehead thanked Sgt. D'Elia and all those involved in this process. He echoed Mr. Hamilton's statement to the effect the Unruly Gathering Ordinance was a work in progress. Mr. Morehead asked for the public's input to help them define what the ordinance should be moving forward. He articulated they were early in the process and said Council would listen to public input. Mr. Morehead asked Sgt. D'Elia for clarification regarding penalties for the responsible persons; specifically, if the language referred to a single person or persons as a group. Sgt. D'Elia confirmed the language referred to a group of persons; therefore, police would be able to cite three people if they were responsible for hosting a gathering. He clarified each person would receive all three violations; therefore, each person would be charged with the Unruly Gathering Ordinance. Mr. Morehead acknowledged NPD tracked problem properties and wondered if they tracked problematic people; specifically, regarding tracking the number of times and locations people engaged in this behavior. Sgt. D'Elia said the tracking was specific to a location and expressed this was due to the fact problems typically occurred at specific locations. He compared the proposed ordinance to a nuisance law which was specific to a property itself and dealt with the issue at that property accordingly. Sgt. D'Elia clarified problematic students typically got in trouble wherever they lived or hosted parties; specifically, they would wind up evicted or in jail due to repeat arrests. He restated the tracking system identified problematic properties. After 24 months from the time the citation was given, the offense was removed. Sgt. D'Elia announced the process was similar to the SUP point system.

Mr. Morehead had a problem with tracking the location to the effect he did not understand why the owner of the property was responsible to evict the person. When it came to the point of eviction, Mr. Morehead thought it was not the person's issue and expressed the property owner's management style was the problem. Although the Unruly Noise Ordinance would be a civil violation, Sgt. D'Elia informed Council the computer systems – the report writing system and the rap sheet for Delaware – would show civil violations, traffic violations and criminal violations. Therefore, NPD would see a second offense for a person who violated the Unruly Gathering Ordinance. If someone lived on West Main Street and received a violation, they would still be able to be cited with a second violation if they moved to Manuel Street

regardless of the change in location. Sgt. D'Elia said the elevated fine would apply for the second offense; however, the landlord at the new location would not be responsible for the second violation. Mr. Morehead thought it appeared NPD tracked problematic people and Sgt. D'Elia confirmed people were tracked through their criminal histories.

Mr. Morehead restated his prior question regarding why they would evict the person if the violation was tracked at a property. Sgt. D'Elia said the person would be evicted from the property because they were the one causing the problem at the location itself. Mr. Morehead still believed the owner's management style caused the bottom line problem if it happened over and over again. He informed Sgt. D'Elia he wished to discuss this at a later point in time.

Mr. Markham asked if the Unruly Gathering Ordinance was proposed to be a civil penalty. Sgt. D'Elia confirmed this was the case. Mr. Markham believed Alderman's Court was a criminal court. Sgt. D'Elia clarified Alderman's Court handled civil offenses as well (i.e. marijuana). Mr. Markham said this related to his concern regarding how the violation was enforced. Sgt. D'Elia announced this violation would be enforced in the same manner as other civil offenses in Alderman's Court. Mr. Markham asked for Mr. Bilodeau for confirmation regarding whether the Alderman's Court was able to handle civil offenses. Mr. Bilodeau confirmed Alderman's Court was able to handle civil violations such as marijuana offenses. Additionally, Mr. Bilodeau expressed building code violations were handled civilly as opposed to criminal. Mr. Markham noted this information was educational for him as he previously assumed Alderman's Court only handled criminal offenses. He asked Mr. Bilodeau if the proposed ordinance was designed so that it would not target a particular group or class of people. Mr. Markham thought targeting particular groups or classes of people would be unconstitutional. Mr. Bilodeau confirmed targeting particular groups or classes of people could be considered unconstitutional; furthermore, this was not the case with the proposed ordinance. Sgt. D'Elia emphasized they would be able to enforce the ordinance City-wide; furthermore, it was the whole point of the ordinance. Mr. Markham asked Sgt. D'Elia if he understood his concern. Sgt. D'Elia confirmed this was the case. Mr. Markham emphasized the ordinance would not stand in court if it targeted specific groups or people. Sgt. D'Elia agreed with Mr. Markham and reiterated this was not the case with the proposed ordinance.

Mr. Clifton asked for clarification regarding Sgt. D'Elia's comment of the civil charge; specifically, he asked for clarification if multiple violations [of the potential Unruly Gathering Ordinance] would be charged civilly. He asked if assaults and fights still carried criminal charges in and of itself. Sgt. D'Elia clarified all of the actual crime behavior that occurred – even if it might be one of the three nuisance behaviors – would still be cited criminally. Moreover, he announced criminal charges and civil charges for the unruly gathering would both be given for this matter. Mr. Clifton asked if the civil offenses referred to the three hurdles that were needed for the Unruly Gathering Ordinance and not the subsequent charges. Sgt. D'Elia expressed they were not talking about changing any of the current laws; furthermore, the current criminal laws would continue to be enforced, coupled with the unruly gathering civil violation. Mr. Clifton questioned if the violation for over four people at a gathering referred to people who were deemed to be unruly; therefore, he wanted to know if it had anything to do with a permit. Sgt. D'Elia confirmed the four or more people at the gathering referred to the unruly gathering; specifically, it did not refer to the permit. He announced this made sense since as it was the practice in Towson in Baltimore County. Sgt. D'Elia reiterated this method was proven to be effective in Towson and had data to support it. He personally observed the success of the number of four people at a gathering during his ride-along with Baltimore County PD. Additionally, Sgt. D'Elia expressed the Disorderly Conduct charge was considered; furthermore, three people who acted together were all that was required for Disorderly Conduct to institute a riot.

For these reasons, Sgt. D'Elia announced four people were chosen to be the limit for the Unruly Gathering Ordinance. Mr. Clifton questioned whether the four-person limitation would affect a person who had a high school graduation. Mr. Clifton referenced Sgt. D'Elia's example of a person who was cited for an Unruly Gathering Violation and moved from one property to another. While a person could receive a second charge at the new property; however, it would not affect the landlord because only one occurrence happened at each location. Sgt. D'Elia confirmed this was the case; specifically, the landlord at the second location would receive a first offense fine for his or her property. Mr. Clifton thought the proposed ordinance was good work and hoped the City would move forward with this.

Mr. Lawhorn commended all who worked on the ordinance as well as the residents who brought it forward. He thought it was a great example of residents working with the City to try to solve a problem. Mr. Lawhorn announced he received feedback from his constituents. While there were some concerns, he thought everyone in the City understood the intent of the ordinance and what they hoped it would accomplish. He thought the language regarding alcohol readily available for guests seemed ambiguous and could be interpreted in many different ways. While he thought the other items made sense, Mr.

Lawhorn thought the provision for readily available alcohol was subjective. Mr. Lawhorn and some constituents' questions why the NPD did not make the penalties stiffer for all the violations included in the proposed ordinance; moreover, he thought all the violations were crimes. Sgt. D'Elia restated the Unruly Gathering Ordinance tied to the landlords. The other crimes – which NPD actually cited people for – did not tie back to the landlords. The research data revealed this method was effective and critical. Conversations with the Baltimore County PD and a Council member in Baltimore County reflected the Unruly Gathering Ordinance would not work without landlord buy-in. Sgt. D'Elia restated partnership between the City, police and landlords would be critical for success. Additionally, making it a civil violation and adding a new law would help NPD with certain things such as the daytime noise warning. Sgt. D'Elia expressed certain laws had some limitations; furthermore, placing those laws with limitations and nuisance behaviors helped to address the real issues.

Mr. Lawhorn echoed Mr. Morehead's question regarding whether violations were tracked at an address or for a person. He believed Sgt. D'Elia said the violations would be tracked at an address; additionally, he thought the ordinance could be tied to a group or team. Mr. Lawhorn asked for clarification regarding how the enforcement would work for a team. Sgt. D'Elia provided a controlled party disbursement example. Every time NPD conducted a controlled party disbursement, there was a group of individuals (i.e. social club, fraternity, underground fraternity or team) who specifically hosted an event. Sgt. D'Elia expressed the ordinance pertained to everyone and was not limited only to residents. For example, if a group of people decided to rent out an empty warehouse in one of the City's locations, they would be able to go after the people who hosted the party (i.e. a promoter, president/vice president or social chair). If there was enough probable cause, NPD could cite residents as well as the people who were responsible for the event. Sgt. D'Elia believed the people responsible for the event's promotion were often responsible if not more so than the actual residents themselves. Mr. Lawhorn agreed with Ms. Sierer's comments to the effect the property owners needed to be involved in this process. He believed their input would be valuable.

Mr. Lawhorn thought the potential might exist for legal concerns; specifically, regarding adults and students who were adults and partied in a house. Mr. Lawhorn thought adults and adult students should be included in this discussion; additionally, he wanted the City's internal review process to ensure they were within their legal rights. He believed the penalty of revoking a rental permit was pretty stiff and thought the City needed to perform their due diligence to be on the up and up. Sgt. D'Elia informed Mr. Lawhorn the current law contained a clause for two noise convictions; specifically, two noise convictions could force an eviction. Sgt. D'Elia stated this already existed in the City Code; however, the proposed ordinance made it specific for unruly gathering which opened it up to other nuisance behaviors.

Ms. Sierer opened discussion to the public.

Amy Roe, District 4, thanked Sgt. D'Elia for his research on this issue. She thanked Chief Tiernan and Lieutenant Anunas for meeting with her and Mr. Hamilton last week. Dr. Roe said the Old Newark Civic Association (ONCA) was very concerned about how to best address the issue of super parties. She described super parties as parties which overtook the streets, affected the neighborhoods and were out of control. Dr. Roe stated super parties were notoriously large, unruly gatherings. She expressed she shared the memo presented by staff on the agenda for tonight's meeting with neighbors. Dr. Roe said she asked the neighbors to provide feedback. Last week, she shared their questions and comments in her meeting with the police. Most of the concerns dealt were about what-if scenarios and clarifications. Dr. Roe informed the audience the police were very kind and the officers answered all of her questions. She provided copies of her notes from the meeting for Council so they could see the types of issues that were raised and how they were addressed. Dr. Roe announced the ONCA did not have time to take a formal position on this as a whole or any of its parts. She clarified the ONCA only had the ability to see the memo for less than a week.

After reviewing the proposal and discussing it with the NPD for over one and a half hours, Dr. Roe was very satisfied the NPD heard their voices. Furthermore, she thought the proposal was a step in the right direction. Dr. Roe supported the use of nuisance criteria to identify super parties. Additionally, she believed the specific identified behaviors were reasonable. Dr. Roe announced her support in applying the proposal to private properties – not just residences – so they could be used to address super parties at vacant store fronts. She supported the idea of adding community service hours for violations which had become a proven deterrent in other jurisdictions. Dr. Roe supported the idea of bringing landlords into the solution; furthermore, she thought mandatory meetings could be very effective. Dr. Roe referenced 25 *Del. C.* §5513 as described in the memo. She provided a copy of the Landlord Tenant Code for Council. Dr. Roe also announced her support for the 24-month look back which would also increase the awareness of how it affected the City's neighborhoods from year to year. Furthermore, Dr. Roe appreciated how the ordinance would protect personal constitutional rights as guaranteed in the First Amendment (i.e.

freedom of speech and personal assembly). She hoped City Council would direct the City Solicitor to work with the police department to draft an ordinance.

Dr. Roe requested a timeline to be provided for the community regarding when they could expect to see a draft of the ordinance. She requested to review and comment on the ordinance before it came up for First Reading. Dr. Roe said it was a well-known fact the super party season was fast approaching and would continue with the warm weather through graduation. She hoped the City would be able to act in a manner that could [potentially] make the neighborhood a more enjoyable place to live this spring.

Gretchen Walker, 44 Kells Avenue in District 4, thanked Mr. Hamilton and the ONCA for the attention given to their concerns over the past two years. Ms. Walker thanked the NPD for working to develop the Unruly Gathering Ordinance. She urged Council to give high priority to this important matter.

John Morgan, District 1, stated he lived far enough away from the University that his neighborhood had not experienced these problems. Dr. Morgan agreed with Mr. Lawhorn's comment to the effect the phrase "alcohol was readily available for consumption by guests" seemed to be pretty vague. He thought Mr. Bilodeau should weigh in on this concern. Dr. Morgan expressed he was not sympathetic to problems at properties owned by absentee landlords. If anything, he believed absentee landlords – especially if they did not live in the City of Newark – should be working with some sort of reputable, responsible management company to prevent such problems from occurring. If landlords were the problem, Dr. Morgan suggested the NPD and staff should look at the landlord rather than at the property. He announced there were many landlords who owned multiple properties, some of which could be very close together (i.e. a duplex on Cleveland Avenue where they were two separate properties with a common wall). Dr. Morgan thought staff should look at multiple violations of this nature at properties owned by landlords. While he acknowledged the possibility that [maybe] a person did not own the property; specifically, in the case where an LLC owned the property. Dr. Morgan thought this was another legal issue that needed to be considered.

As long as the University of Delaware had a reputation as the #1 party school in the USA, Dr. Morgan thought there would continue to be problems. Dr. Morgan believed an effective solution would have to reside with the University making it a priority to admit better students who were more academically inclined. He restated the University should implement smaller classes in order for faculty to monitor attendance. This would ensure students would not be tempted to go to huge parties in weekends and would be kept busy with homework or preparing for a test the following Monday. Dr. Morgan acknowledged the issue of head-tax came up before and expressed it was discussed at a City budget meeting a year or two ago. Dr. Morgan believed he spoke against it at that time. He restated he still did not support a head-tax and emphasized he never advocated it in Legislative Hall himself. Dr. Morgan thought the money would be much better spent to hire more teachers for the undergraduates.

Salvatore Desiderio, 9 Ritter Lane, said the area was a war zone ever since he moved to Newark as he believed it worsened progressively each year. Mr. Desiderio stated he repeatedly heard landlords were the source of problems. He strongly opposed this statement and expressed the majority of the landlords in Newark wanted to cover their property; moreover, it cost more if they did not cover their property. Mr. Desiderio said the landlords who did not care repeatedly caused the same problems at the same properties over and over. He expressed he frequently had to call to report the same properties. Mr. Desiderio said he attended the Council meeting in December where super parties and unruly ordinance was discussed. Since then, the property behind him [which he previously discussed] had a beer can factory explode in its yard. Mr. Desiderio said there were many beer cans in the yard which he described as being wall to wall. He was concerned since there were propane cans, wood, dirt and garbage out in the open. Mr. Desiderio reported he took photos of his neighbor's fence; additionally, he fixed the fence so many times he lost count. Repair efforts on the fence were short lasting as the fence needed to be repaired after every party. Mr. Desiderio announced students knocked down the neighbor's fence in order to use it as a thoroughfare. He believed it was unfair to his way of living as well as his neighbors.

Mr. Desiderio restated it was not possible to blame all the landlords; however, he stated the bad landlords needed to be held accountable. He was pleased with the progress on the ordinance so far and thought it was a step in the right direction. Mr. Desiderio thought NPD's hands were tied was because people had apps on their phones; specifically, there were 25 apps that had the ability to get the police scanner information. Mr. Desiderio announced he could report a party to the police and the kids would be gone before the police car showed up. He announced the absentee landlords and partying students impacted his quality of life. Mr. Desiderio hoped the proposed ordinance would help stop the majority of these issues. He expressed there were only two houses in his area where the worst parties occurred. Mr. Desiderio supported the proposal and thanked NPD for it.

Robin Billey, District 3, said she lived next to a house that was rented to students and had the same landlord for years and years; furthermore, there were parties all the time. Ms. Billey expressed she tried to give students the three to four strike rule before calling the NPD and went out to talk to the students to ask them to be quiet. Ms. Billey acknowledged the students that were partying at the house often were more problematic than the students that lived there. She stated there were drunk students who partied there at 2:00 a.m. who often responded to her request to be quiet with smart comments. For these reasons, Ms. Billey called the police year after year. She believed this point needed to be brought up to the University because the City used their resources and tax money which paid for the police to monitor homes where the students lived. Ms. Billey agreed with the civil fines and thought there needed to be more responsibility to the landlords as well. She believed there should be more accountability for the landlords and thought a fine could be involved. Ms. Billey expressed the same landlords – who may have four or five homes in the community – that rented out to properties that were party homes.

Mary Lee Anderson, Kells Avenue in District 4, had lived there for 30 something years. Ms. Anderson thought it was important to note the dates for the parties were often predictable. She thoroughly agreed the University should have some responsibility for the maintenance of order. Ms. Anderson thought the issues were not isolated to rental properties. She suggested the University develop a program prior to the predictable parties which highlighted the issues for the students. Ms. Anderson said the predictable dates for parties were in the early fall and spring time. She announced she personally went out and spoke to students at 3:00 a.m. when cars went up and down the neighborhood. Ms. Anderson expressed the students had no idea how loud they were and said there were babies in her neighborhood with exhausted parents that needed to sleep. Ms. Anderson emphasized students had no idea regarding the impact of their behavior; specifically, for the students who were freshmen. She expressed the majority of the students were not bad kids; however, they were uninformed. Ms. Anderson questioned whether there would be any way for the University to pay for additional police personnel on those predictable dates. She thought this action might get through to the students about how important the issue was. Ms. Anderson thought the University could assume responsibility for themselves at a very low cost. She thought a head-tax could come out of the University's amorphous tuition fee. Ms. Anderson said the tuition fee wasn't itemized and thought it was a possible mechanism to consider.

David Reise, Cleveland Avenue landlord, emphasized he was far from being an absentee landlord and announced he discovered things after the fact. For this reason, Mr. Reise expressed he was in the process of playing catch-up; moreover, he received the information about this item on the agenda through a text message today. He acknowledged communication as an issue as some of the things he did not find out about until well after the fact. For instance, Mr. Reise stated he received a bill in the mail today from a year ago regarding 10-12 feet of side walk in front one of his houses that did not get snow removed in time. The incident occurred last year and resulted in a \$100 fine; furthermore, the students who lived in the house at that time were long gone. Mr. Reise was required to pay this fine. He had an issue with the 24-month look back and described it as absolutely absurd. He thought it was absurd since students left every year; therefore, making the landlord responsible for someone else's children's actions that were gone, which put him in a really bad position. Mr. Reise said his heart went out to the residents who had to deal with these kids and said no one would be more upset with them than he was. He stated the kids caused thousands of dollars' worth of damage to the inside of his homes each year. Mr. Reise was required to fix the damage to his homes with his own two hands; moreover, he stated the parents never paid for it. He expressed he repaired a neighbor's fence many times.

He agreed the students should be responsible for taking some responsibility for their actions as many of them drove cars which he said were nicer than any vehicles he owned in his life. For this reason, Mr. Reise believed students could sustain more substantial fines. He restated making the landlord responsible for the children was not the way to go. Mr. Reise announced no one cared about the kids not partying at the residence more than he did along that strip. He reiterated they destroyed his property and did not have the ability to control the adults who had rights. Mr. Reise expressed he was required to give them 48 hours' notice to even go into his own property. While he was over at his property doing roof maintenance, Mr. Reise discovered violations caused by the students that he did not know about until he went over there. He restated he cared about the issue and believed making students pay to fix violations and public service was a great idea.

Todd Ruckle, District 2, stated this topic was the reason he came to the meeting. As a member of the Board of Realtors, Mr. Ruckle said he worked with attorneys right now and the Recorder of Deeds. The hope was to have the Recorder of Deeds also record leases. When the lease gets recorded, it would be handled by an attorney and paid for by the renter themselves. A list of the standardized New Castle County [or Kent County or Sussex County] lease would list who was responsible for what. Under no circumstance could Code Enforcement fine a person who did not commit the crime. That being said, Mr. Ruckle thought the individuals should no longer be called kids. Mr. Ruckle believed the kids were adults



according to the law. While they might be youthful adults, Mr. Ruckle restated they were accountable as adults. If they committed a crime, they were responsible to do the time or pay the fine. He emphasized the landlords were not responsible for the students' behaviors. Mr. Ruckle thought penalizing the landlords hurt investment in the City. If everyone supported the fact there would be a recorded lease, the police would know who would be on that property. Additionally, the police would know who was responsible for the sidewalk. Code Enforcement would be able to fine the right person; therefore, everyone would be happy. Mr. Ruckle emphasized the importance of following the law and fining the right person. He believed the police or Code Enforcement would not go after the wrong people any more. For landlords who did not keep their properties up, they would be held responsible if a review of the lease revealed they were responsible for something done incorrectly. If garbage was on the property, Mr. Ruckle announced the tenant should be held responsible.

Mr. Ruckle thought the City should do what he described as American by going after the right party. He expressed this would be fixed at the State level which would in turn trickle down to the County and City of Newark. Once this was fixed, Mr. Ruckle believed the problems would be solved. He thought it was unconstitutional to limit how many people could be at a house if it was unruly. Mr. Ruckle asked what constituted an unruly house. If there were 50 people at a party and three of the unruly behaviors occurred, Mr. Ruckle wondered if the police would go after everyone or just the individuals who were doing it. Sgt. D'Elia informed Mr. Ruckle it was a social host law; therefore, it applied to the actual people who allowed the behavior to happen at the gathering. Mr. Ruckle said he was worried that people who went to a party and did not engage in unruly behavior would be held responsible or charged for it. He reiterated he did not want to limit how many people could be at a gathering. Mr. Ruckle said he had client appreciation events, birthday parties, wakes and other gatherings and believed they could not limit the number of people. Mr. Ruckle echoed Dr. Roe's statement to the effect they could not limit people's freedom to gather and their liberty to be Americans. Mr. Ruckle suggested Council get behind the Recorder of Deeds and Leases and get the leases recorded in order to establish a guideline on what was supposed to happen. Mr. Ruckle believe these measures would give the police the ammunition they needed to do what they had to do.

Maria Ruckle, District 2, stated she liked what Sgt. D'Elia put together and thought it was pretty comprehensive. She mentioned Mr. Hamilton brought up charging for parties. Ms. Ruckle believed the fines needed to be stepped up a bit. She thought anyone who drove around town would see some of the cars the kids had. Ms. Ruckle expressed it was different when she went to college and stated she did not have a car in college. She observed kids driving \$100,000 cars down Main Street. She restated the fines needed to be stricter. Ms. Ruckle stated a prior comment was made to the effect of teaching incoming freshmen about alcohol and drugs. She announced the University already did this as her daughter was a sophomore at the University. Ms. Ruckle said the University had a freshman seminar that all incoming freshmen were required to take; furthermore, the seminar touched on drugs, alcohol, and sexual offenses. She believed the freshman seminar could go further and [maybe] talk about their impact in the Newark Community as well as general respect for their neighbors. Ms. Ruckle thought this was sad, but acknowledged it needed to be done. She supported partnering with the landlords and said it was huge; moreover, Ms. Ruckle stated an "us against them" mentality or perspective should not occur. Ms. Ruckle echoed Mr. Reise's comment regarding the landlords did not want the parties to occur any more than the general community did. She reiterated the students ruined landlords' properties. Ms. Ruckle thought discussions needed to occur to bring everyone on board including the landlords.

Catherine Ciferni, District 2, asked for clarification regarding fines; specifically, she asked what happened for students who were fined for having a party and the landlord who owned the property was cited. Ms. Ciferni said the students were a transient population which meant they moved on; however, the property was fixed. She stated there could be a completely different offender at the property in the following year. Ms. Ciferni questioned whether the landlord would be responsible for the second offense, even though it would be a first offense for the second occupant. Sgt. D'Elia confirmed the landlord would be held responsible for the second offense, even if it was the first offense for the second occupant. He provided a theoretical example where he shared a house which hosted problems with both NPD Deputy Chiefs. As the three residents of the rental property – who kept hosting loud unruly gatherings – and an eviction happened where Sgt. D'Elia was evicted [because he kept getting caught], the two Deputy Chiefs would still be held responsible. If they took on a third roommate the next year, they would still be the same organization. Additionally, it would continue if Chief Tiernan moved in the Deputy Chiefs and continued to cause problems for the neighborhood. Ms. Ciferni questioned what would happen if all lessees in the unit were new in the following year and the property was fixed. She wondered if it would be a second offense for the landlord.

Sgt. D'Elia said they were flexible as it was the discussion phase. He emphasized the matter tonight was only the first draft. Currently, because of the organizational piece, Sgt. D'Elia confirmed the landlord

would be held responsible for a second offense if all lessees in the unit were new during the following year. Sgt. D'Elia announced they typically observed these problems at certain properties with certain landlords where the same organization moved in. Although the new lessees were three different faces, it was the same group who caused the same problems and hosted the same parties every year. Once the ordinance went into effect, Ms. Ciferni asked how many instances would be considered to be a repeat. She thought two instances were unmeasurable at this point if it wasn't yet in effect. Sgt. D'Elia said he was able to determine this at the beginning of the year; specifically, it depended on how close the instances were to each other. He announced there were parties in an afternoon and the same night at the same exact location. Sgt. D'Elia expressed they disbursed a crowd of 500 people at that location. If they had a third party the following weekend, Sgt. D'Elia believed it was safe to say it was a problem location. He emphasized it depended upon the individual situation as there could be one location that violated the Unruly Gathering Ordinance who never had the issue again. Sgt. D'Elia announced problem locations were identified by the types of behaviors that went on. There were many mitigating circumstances that could occur (i.e. a kid falls off a roof at a party the second time, someone got hit by a train when they left a party); therefore, a 24-month lookback was recommended.

Mr. Morehead asked if the lookback would not begin until the law took effect. Sgt. D'Elia confirmed this was the case and expressed it would start the day the law went into effect.

Ms. Sierer brought the discussion back to the table.

Mr. Hamilton said there would always be an anomaly property that would be observed in a two-year lookback. If a landlord had a problem with a set of tenants one year and evicted them [or they graduated] and a second set of tenants caused a problem the following year, Mr. Hamilton said the second offense for the landlord would only be the talk with the NPD officers. For landlords who did everything in their power and tried to help the City and NPD, Mr. Hamilton expressed they would not come after them if a third offense occurred. Mr. Hamilton expressed the absentee landlords or non-compliant landlords who did nothing to remedy their situations were the people who they were after. If landlords worked with officers, and the behaviors and problems truly were because of the tenants, Mr. Hamilton said they would hold the tenants responsible. Mr. Hamilton defined the problematic properties as the underground fraternity that kept renting a property; specifically, the landlord kept the same problematic organization/underground fraternity on the lease with different tenants. Mr. Hamilton believed there was no type of defense for this behavior. He reiterated the proposed ordinance was only one of the tools used to fix the situation. Mr. Hamilton thanked Ms. Olsen for meeting with the ONCA. He expressed they worked with the University's Student Life staff. Mr. Hamilton said there was freshman orientation; however, the freshmen [usually] were not the ones hosting the parties since they lived on campus. Mr. Hamilton stated the juniors, seniors and other groups typically hosted the parties. He expressed the approach addressed the issue from several different angles.

Mr. Hamilton thought it was an opportunity for NPD's officers and City to take control of problem properties; additionally, there was an opportunity to improve communication with the University of multiple levels. Mr. Hamilton said the ONCA worked with the University to get the students and ONCA to work together. Many of the students thought certain areas were party streets when they rented their houses. Students learned this wasn't always the case as there were many families in neighborhoods or streets which they thought were party areas. Mr. Hamilton believed a culture change was necessary. While the ordinance would have an immediate impact, Mr. Hamilton stated the long-term effects would be seen through increased discussions and improved communication. Mr. Hamilton thought the University did not want the reputation of being the #1 party school and expressed most of the students were not part of the reputation. He believed the students needed to be educated on living in neighborhoods as well as how to be a good neighbor. Mr. Hamilton thought this lesson was not only for freshmen and believed it was appropriate for all students. There were many students and clubs (i.e. the AMT Club) on campus who did great work and community service in the City. If those students could begin to know their neighbors, Mr. Hamilton thought the unruly and undesirable behavior would decrease. Mr. Hamilton said students would not do this to their mothers, their mothers' friends or their own friends. He restated the need to integrate students into the community in a better way in order to see the residents as neighbors. If most of the problems went away, Mr. Hamilton thought they would be left to address the problem properties [which would be handled in a different way].

Mr. Morehead asked Mr. Coleman how soon the Unruly Gathering Ordinance could be fleshed out and moved forward. Mr. Coleman thought the recommendation to talk to the NLA was a good one; therefore, he wanted this conversation to occur. He expressed he would work with the NPD to set up a meeting with the NLA. After the meeting, it would depend on how fast a draft ordinance could be brought together. Mr. Coleman said there was one request to have the ordinance circulated prior to First Reading; therefore, he asked for direction from Council if this was something they wanted to do. He asked for

direction regarding how long they wanted the ordinance circulated prior to putting it on for First Reading as he was unsure if this was something that was done historically. Mr. Morehead thought it made sense to bring the ONCA to the meeting with the NLA since they had reformed. He thought everyone could review the draft at the same time. Mr. Coleman said he would try to set this up and agreed to include the ONCA since they were the most active party. He thought it would make sense to show the ONCA a draft of the ordinance prior to putting it on for First Reading. Mr. Morehead said there were landlords who asked for students' transcripts up front before they allowed them to lease the property. He told Mr. Reise there were many resources in the town to make landlords' lives easier and businesses more profitable.

Ms. Sierer asked Mr. Coleman and Sgt. D'Elia if they received enough direction from Council. Mr. Coleman and Sgt. D'Elia confirmed this was the case. Ms. Sierer thanked Mr. Coleman and Sgt. D'Elia for their time and effort in this matter.

**17. 6-D. UPDATE ON LANDSCAPE SCREENING AND TREATMENT ORDINANCE REVIEW COMMITTEE – PARKS AND RECREATION DIRECTOR**

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**2:53:23**

Mr. Spadafino said he would provide an update on the Landscape Screening and Treatment Ordinance Review Committee. The committee would examine Chapter 32, Article XXV – Landscape Screening and Treatment Ordinance. At the Council meeting on October 22, 2018 a proposed revision of Chapter 32, Article XXV – Landscape Screening and Treatment Ordinance was discussed. Council provided direction to perform a committee to review the ordinance pursuant to Section 32-87(g), for general provisions, and tree mapping requirements. Mr. Spadafino said Council had a chance to review the memo dated January 18, 2019 and announced he would answer any questions.

Ms. Sierer opened discussion to the table.

Mr. Markham asked for clarification regarding the makeup of the committee's participants. He thought there were very qualified people who understood trees. Mr. Markham asked who would be the committee's generalist which he defined as someone who represented the community at large. Mr. Spadafino said he could add one of those individuals to the committee. Mr. Markham did not know who it would be; however, he thought including someone who wasn't an expert might bring more balance to the conversation. Mr. Spadafino said this was a good point and expressed there were many residents in Newark which he thought could be chosen as a generalist. Mr. Markham said he hoped Mr. Spadafino would recruit a non-expert who lived in the City on a daily basis. Ms. Sierer agreed with Mr. Markham's point and thought there needed to be a resident on the committee.

Mr. Morehead recommended Sheila Anderson if Mr. Spadafino had not spoken with her already. He mentioned there were five trees across the front of Campus Edge when it was first built. Ms. Anderson fought extremely hard to save some of them. Because of Ms. Anderson's efforts, the developer saved some trees as well as lost some. Mr. Morehead announced the next development he saw happen – as soon as the property was purchased – was clear cut. There were a number of old, valuable trees that were completely gone before anything else happened (i.e. before any plans came to the City etc.). Mr. Morehead expressed the property was totally denuded. He believed the Landscape Screening and Treatment Ordinance Committee needed to take this into account. Mr. Morehead said a City-wide Value Tree survey needed to be completed. Mr. Spadafino said a tree survey was conducted in 2014-2015; however, it was just on City parkland. He questioned if Mr. Morehead was looking for a survey that would involve the entire community. Mr. Morehead confirmed this was the case as he believed what Mr. Spadafino talked about involved the entire community. He restated it was necessary for the committee to understand why a new Value Tree Survey would be completed as well as the reason for the revision of the ordinance.

Ms. Sierer said her recommendation if Council agreed was for Mr. Spadafino to come forward with variations of tree studies; moreover, the studies could include commercial properties, rental properties or homeowners. She believed it was necessary to develop a game plan in order to move forward. Mr. Spadafino said he could reach out to Barlow Tree Service who conducted the earlier study on the City's parkland to ask them to conduct a survey for the entire City. Ms. Sierer asked Mr. Spadafino if he had enough direction from Council. Mr. Spadafino confirmed this was the case. Mr. Coleman questioned whether staff should choose a resident. Ms. Sierer said she was perfectly fine with Mr. Spadafino choosing someone. Mr. Lawhorn stated he was fine with Mr. Spadafino's selection. Ms. Sierer asked if there was any objection if Mr. Spadafino did not come back to Council with the name of a resident. Mr. Hamilton asked Mr. Spadafino to consider Mr. Morehead's suggestion. Mr. Spadafino confirmed he would reach out to Ms. Anderson to see if she was available. Ms. Sierer stated staff was ready to pick a resident and move forward with the process.

There was no public comment.

**18. 7. RECOMMENDATIONS ON CONTRACTS AND BIDS:**

- A.** Recommendation to Waive the Bid Process in Accordance with the Code of the City of Newark to Utilize State of Delaware Awarded Contracts for the Purchase of Annual Software Licenses and Materials

**2:59:28**

Mr. Brainard said item 7-A was the recommendation to waive the bid process for the purchase of the Honeywell Elster Software Upgrade. This was approved in the City's 2019 Operating Budget. The City's software was two versions behind the newest release and must upgrade in order to avoid an increase in maintenance costs.

There were no comments from Council or the public on item 7-A.

MOTION BY: MR. MARKHAM, SECONDED BY MR. LAWHORN: TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF THE HONEYWELL ELSTER SOFTWARE UPGRADE AS APPROVED IN THE CITY'S 2019 OPERATING BUDGET.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

**19. 7-B. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO UTILIZE STATE OF DELAWARE AWARDED CONTRACTS FOR THE PURCHASE OF CITY VEHICLES**

**3:00:36**

Mr. Brainard stated item 7-B was the recommendation to utilize State of Delaware Contracts for the purchase of replacement vehicles as outlined in the 2019 Capital Improvement Plan (CIP).

There were no comments from Council or the public on item 7-B.

MOTION BY MR. CLIFTON, SECONDED BY MR. LAWHORN: TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO UTILIZE THE STATE OF DELAWARE AWARDED CONTRACTS FOR THE PURCHASE OF THE ANNUAL CITY VEHICLES NOT TO EXCEED THE BUDGET AMOUNTS OUTLINED IN THE MEMO DATED JANUARY 15, 2019.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

**20. 7-C. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK TO UTILIZE STATE OF DELAWARE AWARDED CONTRACTS FOR THE PURCHASE OF POLICE VEHICLES**

**3:01:46**

DC Feeney said he was here to continue the vehicle conversation. While he planned to reiterate all the points in the January 16, 2019 memo, he expressed he would be brief in the interest of time. Over the last few years, NPD utilized the Chevy Tahoe as their primary patrol vehicle. This last year specifically (2018), City mechanics documented numerous issues with the Chevy Tahoe and spent considerable time and money trying to rectify these issues. As a result, Dave Vispi recommended for NPD to move away from the Chevy Tahoe as their primary patrol vehicle. DC Feeney informed the audience he met with Messrs. Vispi and Winterling and other staff members. They agreed the Ford Interceptor Utility was a good replacement for the Chevy Tahoe. While the Ford Interceptor Utility was a little smaller than the Chevy Tahoe, it was a good replacement since it was an SUV with all-wheel drive. DC Feeney announced the Ford Interceptor Utility had enough room for police equipment.

Ford was in the process of retooling and preparing to redo their 2020 model. As a result, the deadline for the 2019 models was due in late September 2018. DC Feeney said it was obvious they missed that deadline. Lt. Hargrove started to research the matter and located an out-of-state company in Tennessee that had several 2019 models on their lot. The good news was the vehicles would ship within six-weeks if Council agreed to purchase them. Additionally, the NPD would receive the vehicles a lot

quicker and would be able to put them on the road sooner than expected. DC Feeney stated the 2020 models weren't expected to be out until late spring or early summer. By the time the vehicles were ordered, there would be a four-month turnaround. There would be six to eight weeks of upfitting costs. DC Feeney said the NPD would be waiting till November if they waited until the 2020 Ford Interceptor Utility came out. With all that in mind, DC Feeney announced it was staff's recommendation to come to Council to see if they would approve waiving the bid process and going outside to Tennessee to order. This was specifically for four patrol vehicles and one vehicle from the Traffic Unit.

Ms. Sierer opened discussion to the table.

Mr. Markham questioned whether DC Feeney was sure they did not want to wait for the 2020 models. He quoted the "Police Interceptor Utility is the first ever pursuit rated hybrid police SUV." DC Feeney said they had some discussions about this and acknowledged new models came with new issues. He expressed the 2019 model was about 10% more expensive than the 2018 model. DC Feeney anticipated the 2020 model would be about the same. Therefore, they believed the 2019 model was a good value. DC Feeney said they would let other police agencies work out the bugs in the new model and would come back in 2021.

Mr. Clifton thought the Chevy Tahoe had engine issues early on. DC Feeney said they had significant issues and stated Mr. Vispi could attest to this. He expressed they had several vehicles that were out of service for long periods as time. DC Feeney restated there were enough issues that the mechanics thought it was time to move away from the Chevy Tahoe. Mr. Clifton reported there was an agency [perhaps Houston] where they had issues with exhaust fumes coming into their Ford Explorer vehicles. DC Feeney acknowledged they were aware of this and thought all the issues had been addressed. Mr. Vispi said he could address both the Tahoe issues and Explorer issues. The Explorer issues [from what was proven] were attributed to the upfitters; therefore, holes supposedly weren't sealed properly after the upfitters went in and installed the equipment. After this was repaired, Mr. Vispi announced they had not heard of any other issues. As far as the Tahoes – the 2015, 2016 and 2017 vehicles the NPD had – Mr. Vispi said they had a vehicle at the dealership every week. There was a vehicle at the dealership now. Most of the vehicles were covered under warranty; however, the warranty was about to expire. Mr. Vispi announced almost every Tahoe the NPD owned had an oil consumption problem. There were multiple issues with camshafts and lifters. Almost every Tahoe had fuel injectors put on them; furthermore, every Tahoe had motor mounts installed in them.

Mr. Vispi expressed the majority of the Tahoes had AC condensers; moreover, there were several with brake booster problems. He described Tahoes utilized by the public were different from the police vehicles. Police vehicles were hot seated, which means they were used 24/7. Mr. Vispi expressed the NPD Tahoes' mileage was much worse than the public. Furthermore, the City driving did not help. Mr. Vispi announced vehicle 908, a 2010 Chevy Tahoe, had remarkable reliability. They still had the 2010 today; however, they were getting ready to replace it. Therefore, Mr. Vispi stated the consensus from the garage was to go forward. However, GM changed everything with their Tahoes with multi-displacement. Ever since this happened, Tahoes were horrendous for the police force and were unable to be kept on the road. Mr. Vispi stated he made several phone calls regarding the Ford Explorers to multiple police agencies. Cecil County Sheriff's office and the University of Delaware Police Department reported to be very happy with the Ford Explorer. The Delaware State Police were in the process of changing over to the Ford Explorers and were currently testing them out. Mr. Vispi went to look at equipment in Stafford Township, New Jersey on Friday (January 25, 2019) who had the Ford Explorers in service and were pleased with them. For these reasons, Mr. Vispi thought the Ford vehicles were worth a try; moreover, the budget proposal revealed they were less expensive than the Tahoes.

Mr. Clifton agreed and said the proposed patrol vehicles were less expensive than the Tahoes by a couple thousand dollars per vehicle. Mr. Vispi announced the vehicles would come in thoroughly outfitted. Since there was only one reliable outfitter in the State of Delaware for the NPD, Mr. Vispi announced the department often was bumped. If they [NPD] bought four or five cars, the State (DSP) would come in with 50 and would bump the NPD. Mr. Vispi emphasized NPD did not have the same push as the State (DSP). While NPD waited in line, the County (NCCPD) bought 50 cars. This pushed NPD further down on the outfitter's list; therefore, Mr. Vispi said it took forever to get their vehicles in service. Mr. Hargrove's research revealed Fleet Safety from Tennessee was a nice outfit since the vehicles would come to NPD and would be ready to be placed in service. Mr. Vispi expressed they would only need to decal the vehicles and put the radios in before NPD used them. Mr. Clifton told DC Feeney and Mr. Vispi he conducted excellent work.

Mr. Morehead asked if the Fords were 4x4 vehicles. Mr. Vispi confirmed the Fords were AWD.

There was no public comment.

Mr. Markham reminded staff to place a suggested motion on the memos submitted to Council.

Ms. Sierer suggested for Mr. Clifton to add the memo dated January 16, 2019 to the motion.

MOTION BY MR. CLIFTON, SECONDED BY MR. MARKHAM: TO WAIVE THE BID REQUIREMENTS AND APPROVE THE PURCHASE OF FOUR VEHICLES FROM FLEET SAFETY OF TENNESSEE AS PER THE MEMO DATED JANUARY 16, 2019.

Mr. Morehead asked for clarification regarding whether NPD asked for six vehicles as opposed to four. He referenced the Chevy Impala in the January 16, 2019 memo. Mr. Vispi expressed the Impala was included in item 7-B that Mr. Brainard previously spoke to; moreover, it was part of a different State contract. Mr. Vispi clarified the four SUVs were off of the State contract and were the four patrol vehicles and one traffic vehicle. Mr. Morehead thought NPD started with one CID, one traffic vehicle, and four patrol vehicles. Mr. Vispi said the original memo was for the purpose of getting all the information out to the public; specifically, what total cars they needed to replace for 2019. Mr. Vispi said the CID vehicle still would be purchased off the State contract which was addressed by Mr. Brainard in item 7-B. The SUVs were on a separate State contract; however, the 2019 models were not on there. For this reason, Mr. Vispi restated the NPD requested to purchase the vehicles from Fleet Safety of Tennessee. Mr. Vispi confirmed all six vehicles would be replaced.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

**21. 7-D. RECOMMENDATION TO WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CITY OF NEWARK FOR THE PURCHASE OF A BASIC CLEANING VEHICLE BASED ON COMPETITIVELY SOLICITED PURCHASE CONTRACTS IN ASSOCIATION WITH SOURCEWELL (FORMERLY NATIONAL JOINT POWERS ALLIANCE)**

**3:11:30**

Mr. Filasky stated the request was for one large vehicle, the VACALL Catch Basin Cleaner, which originally was slated for in 2016. The vehicle was what was used to clean the catch basins around the City. Mr. Filasky stated the vehicle was used to hose the catch basins down and removed the junk from them and other areas. Additionally, the vehicle was occasionally used for picking up leaves and things of that nature. Mr. Filasky referenced the memo to Council dated January 16, 2019 to the effect Sourcewell was the agency which helped the City with the contract. Sourcewell, formerly called the National Joint Powers Alliance (NJPA), changed their name. Sourcewell was exactly the same company as the NJPA. Mr. Filasky expressed the request was to purchase a new basic cleaning vehicle since the old one required substantial repair over the last couple of years.

Ms. Sierer opened discussion to the table.

Mr. Hamilton appreciated the research the NPD officers did and asked if all staff researched the vehicles the City purchased. While he thought it was great to get a good price on a vehicle, Mr. Hamilton thought staff needed to ensure they purchased a good quality vehicle. Mr. Filasky questioned whether Mr. Hamilton questioned the actual vehicle itself. Mr. Hamilton confirmed this was the case. Mr. Filasky expressed he VACALL was the same product they had for two previous trucks. For this reason, Mr. Filasky clarified they were comfortable with the VACALL type of vehicle. He confirmed they performed substantial research regarding vehicles and that Mr. Vispi would attest to this fact. Mr. Filasky expressed the VACALL should have been purchased in 2016; however, they delayed purchasing the vehicle because of research.

There were no additional comments from the table or the public.

MOTION BY MR. MARKHAM, SECONDED BY MR. MOREHEAD: TO WAIVE THE REQUIREMENT TO SOLICIT A NEWARK SPECIFIC BID FOR THE VEHICLE AND AUTHORIZE THE PURCHASE OF ONE CATCH BASIN CLEANER TRUCK UTILIZING SOURCEWELL COMPETITIVELY BID CONTRACT NUMBER 022014-TRD FROM MIDATLANTIC WASTE SYSTEMS OF EASTON, MARYLAND AT THE TOTAL COST OF \$305,990.76.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

**22. 8. FINANCIAL STATEMENT: (Ending November 30, 2018)**

**3:14:02**

Mr. Del Grande noted he would discuss November's financials and that December's financials would be discussed at the Council meeting on February 25, 2019. He stated they were in year-end process now and announced they would close the books on 2018 at the end of next week (February 8, 2019). Mr. Del Grande informed the audience auditors were in the process of evaluating the City's financial process and stated he would provide good numbers at the next Council meeting on February 11, 2019.

He expressed there wasn't much of a difference between the October report when compared to November 2018. Mr. Del Grande announced there was a \$100,000 improvement to the net current operating surplus to \$4.3 million. He reviewed real estate transaction sales over the year to establish an idea of where they were. Mr. Del Grande said \$1.55 million for the year for real estate transactions and announced they closed around \$2.4 million. There were 497 real estate transactions in 2018. Of the 497 real estate transactions, 323 provided \$1.2 million in revenue. Another 14 real estate transactions provided the other \$1.2 million in revenue. Mr. Del Grande emphasized the fact they were very dependent on large commercial transactions that sold in the City to help the real estate transaction revenue. 1/3 of the City's transactions were exempt from real estate transfer tax (RTT).

Water and sewer sales were just above budget; moreover, electric sales were slightly below budget and was approximately 1% short. Mr. Del Grande expressed he wasn't too concerned about this shortage as they approached the last month of the year [December 2018]. The cash balance dropped by \$1 million. Mr. Del Grande expressed he mentioned at the Council meeting on January 14, 2019 they were generally on the high side at that point since the City brought in RTT in the fall. He clarified the numbers started to dwindle down throughout the rest of the year into the summer of 2019. The electric regulatory liability had a credit balance of \$3.9 million. This would be discussed at the March 11, 2019 Council meeting where Council would be asked to consider it in terms of the Regulatory Asset or Liability (RSA) Adjustment. The \$3.9 million represented an overcollection due to savings generated by DEMEC. Mr. Del Grande announced the savings would be passed back to the City which would go back to residents.

HB 2 was signed into law by the Governor last week. This bill provided some relief to federal workers and [federal] contract workers who experienced current difficulties due to the furlough. Mr. Del Grande expressed the Finance Department received one contact regarding the status where they asked for help with a utility bill. Mr. Del Grande informed the audience that account was noted. He told Council to advise any constituents in their districts – who were federal employees or contract workers for federal employees – to contact the Finance Department if they had any difficulties with their utility bills.

The lodging tax came in over the last two weeks. Seven of the nine hotels in the City paid on time and two [hotels] had not. The seven hotels provided \$43,000 in revenue for the City on account of the lodging tax. Mr. Del Grande emphasized this was new revenue for 2019 which the City did not have in 2018. He hoped to reach \$50,000 in additional revenue and hoped the two outstanding hotels would even out the revenue when they paid.

Mr. Del Grande announced accounting staff were awarded the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association (GFOA) this past week (week of January 21, 2019). The award was in reference to the City's 2017 Comprehensive Annual Financial Statement report. Mr. Del Grande said this was the highest form of recognition the Finance Department could possibly receive on their Financial Statement. He commended Jill Hollander, Deputy Director of Finance, and the Accounting staff for all their hard work to achieve the prestigious award. Mr. Del Grande announced this was the ninth year in a row where the City received this award.

Ms. Sierer thanked Mr. Del Grande and staff. She opened discussion to the table.

Mr. Markham thanked Mr. Del Grande for providing information on the amount of money collected from the lodging tax as well as the desired target. He congratulated staff on the GFOA award. Mr. Markham asked Mr. Del Grande for clarification regarding whether he thought the year-end for 2018 was flat or up. Mr. Del Grande believed they would meet budget on the utility side; however, he had not seen the final electric numbers. He restated he believed they would be where they needed to be. Mr. Del Grande restated the General Fund numbers [which he reported all year] looked pretty good. RTT, permits and others were beneficial. Mr. Del Grande announced there were other things they needed to reconcile (i.e. pension, OPEB, interest investments, rate of return on investments, worker's compensation claims).

Once these numbers were finalized, Mr. Del Grande stated they would have a final unaudited number which would come back to Council. Mr. Markham asked if the City did better than budget and did not have any specific plans for the unbudgeted number. Mr. Del Grande expressed they used a little bit of the anticipated surplus from RTT as part of the 2019 budget to help with the replacement of some of the vehicles in the 2019-2023 CIP. Mr. Del Grande clarified this represented only a small portion and expressed the rest of the surplus wasn't used for anything.

Mr. Hamilton asked Mr. Del Grande to clarify the timeframe of the hotel tax. Mr. Del Grande said the lodging tax was for the month of December and would be due on the 20<sup>th</sup> of the next month. He restated they received seven of the hotels' taxes on time and announced they made phone calls to the two outstanding hotels. Mr. Hamilton asked what the extrapolation of the amount would be for a full year. Mr. Del Grande said \$675,000 was budgeted for the year for 2019. Because the lodging tax was a new revenue, he clarified they did not have a history to predict ebbs and flows. Mr. Del Grande reached out to the State to attempt to get an idea of what they could expect; however, he had yet to receive a response from them. Mr. Del Grande said they compiled data internally to provide the information so they could calculate some numbers on their own. Mr. Coleman announced one of the challenges was attributed to the fact the State was unable to share a lot of their information with Newark which they were able to share with Wilmington. Therefore, this matter would be discussed as part of the Charter change process; specifically, to request to have the authority for the State to share this information with them. Mr. Coleman believed this would enable the City to audit the information they had as well as get data on seasonality.

Mr. Morehead asked if the \$3.9 million was in addition or was it part of the \$4.3 million RSA. Mr. Del Grande said the \$3.9 million was in addition to the RSA and was not a part of the \$4.3 million. Mr. Morehead questioned if the \$4.3 million was real or if they had to give it back.

There was no public comment.

MOTION BY MR. MARKHAM, SECONDED BY MR. CLIFTON: TO APPROVE THE FINANCIAL UPDATE UNAUDITED FOR THE 11-MONTHS ENDING NOVEMBER 30, 2018.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

Ms. Sierer announced there would be a five-minute break and the meeting would resume at 10:27 p.m.

*(Secretary's note: There was a five-minute break between 10:22 p.m. and 10:27 p.m.)*

**23. 9. ORDINANCES FOR SECOND READING AND PUBLIC HEARING:**

- A. Bill 18-33** – An Ordinance Amending the Comprehensive Development Plan by Changing the Designation of Property Located at 83-105 New London Road and 40-42 Wilson Street **(See Item 10-A)**

**3:22:40**

Ms. Sierer announced items 9-A and 10-A would be discussed simultaneously tonight. Ms. Bensley read items 9-A and 10-A into the record by title and that items 9-A and 10-A were advertised in the Newark Post on January 11, 2019 and direct mail notices were sent on the same day.

MOTION BY MR. MARKHAM, SECONDED BY MR. MR. CLIFTON: THAT THIS BE THE PUBLIC HEARING AND SECOND READING FOR THIS MATTER.

MOTION PASSED. VOTE: 6 to 0.

Aye – Clifton, Lawhorn, Hamilton, Markham, Morehead, Sierer.

Nay – 0.

Absent – Wallace.

Ms. Gray expressed Ms. Bensley read into the record a description of the property under discussion this evening. Following the Subdivision Advisory Committee's review of the proposal, the Planning and Development Department suggested for the Planning Commission to recommend approval of this project of the Comprehensive Development Plan Amendment. Additionally, the Planning and Development Department recommended that the Planning Commission recommend the approval of the



Major Subdivision with Site Plan approval for the series of Subdivisions Advisory Committee conditions that were contained in the staff report dated November 30, 2018. Ms. Gray announced the Planning Commission recommended approval of the Comprehensive Development Plan revision as well as recommended approval of the Major Subdivision by Site Plan with the Subdivision Advisory Committee's conditions at their meeting on November 6, 2018. Ms. Gray announced she would answer any questions before the applicant's representative, John Tracey, Esquire, would present. She announced Kevin Mayhew, applicant, and Alan Hill of Hillcrest Associates were in the audience this evening.

John Tracey, attorney with Young, Conaway, Stargatt & Taylor, announced he was at the meeting on behalf of Mr. Mayhew. Mr. Tracey restated the project sought both a Comprehensive Plan amendment as well as subdivision and site plan approval. He acknowledged Council had the applicant's report available to them for some time as it was part of the record in this matter. Mr. Tracey said the matter was an expansion of a project that Council approved some years ago known as Campus Walk. Since the project was in close proximity to Campus Walk, it was named Campus Walk II. He reiterated Campus Walk II built upon what already was established in Campus Walk I, extending it around to incorporate some of the single-family homes in the area. Mr. Tracey referenced an aerial photo from Mr. Hill and stated it provided a flavor of the area. He described the area as one of the gateways into the City. There was a mix of various University high and low-density residential in the photograph as well as an image of the Newark Country Club. Mr. Tracey said the Campus Walk II essentially was just outside of the intersection located outside of Cleveland Avenue and New London Road.

Mr. Tracey displayed an image which provided an overview of the site plan under discussion. One of the key features of the site plan was the interconnection of the project; specifically, how it connected through the existing drive around to Wilson Street, which ultimately backed out to Corbit Street. As part and parcel of the connectivity, Mr. Tracey stated 11 existing driveways would be eliminated which had access onto New London Road. This would funnel all the access to the area behind. Mr. Tracey said Ms. Gray mentioned there would be 12 five-bedroom townhouse apartment style buildings along New London Road. There would be 16 four-bedroom townhouses behind the 12 five-bedroom townhouses. By comparison, there were six-bedroom townhouse apartments in Campus Walk I. Therefore, each of these were smaller and catered to differences in the rental market; specifically, regarding people who did not seek to have large buildings and wanted smaller buildings in that regard. Mr. Tracey acknowledged the NPD's comments which recommended making Wilson Street a no-parking street. He said they did not object to the NPD's recommendation as Mr. Mayhew owned a number of the buildings on that street. Mr. Tracey clarified they did not own all the buildings on Wilson Street; therefore, his comments were not in reference to people not affiliated with them.

Mr. Tracey referenced a single gray rectangle on the side of Wilson Street in the rendering. This rectangle indicated they would relocate one of the buildings that currently existed on New London Road. One of the buildings – which currently existed on New London Road – would be relocated and would replace an existing structure on Wilson Street. The reason for this was the structure on New London Road was not particularly old in the grand scheme of things; therefore, it made sense to use it to replace an older building as opposed to tearing it down. Homes that were zoned RD were indicated with red roofing on the rendering. Mr. Tracey expressed these homes would not be changed in the application as they were included due to some lot-line adjustments within the property themselves.

One of the unique aspects of the property was due to the applicant's neighbor, St. John AME Church, who was located immediately to the south. Mr. Tracey stated the St. John AME church had been in the area for many years. As they progressed through the project, Mr. Tracey announced they worked with St. John's both on design aspects for their project as well as their goals for the church. He clarified the goals for the church referred to what they hoped would happen with their property in the future. Mr. Tracey expressed they would repave areas in the church's parking lot; furthermore, he announced the church would allow them to use the parking lot for construction access related to the stormwater facility. Mr. Tracey pointed out a yellow rectangular area of property on the rendering which he said was a little over 5,000 square feet in size. This area would be donated to the church as well in order for them to incorporate into their property. Mr. Tracey expressed the church would be able to use the property for whatever purpose they saw fit. Additionally, some updates were made from what they showed the Planning Commission with regard to the stormwater facility. Mr. Tracey expressed there was an individual who attended the Planning Commission's meeting on November 6<sup>th</sup> and asked questions about the area; additionally, the individual requested for additional landscaping to be added to the area. For these reasons, Mr. Tracey announced they incorporated additional landscaping into their plan which would serve as a further buffer and accoutrement for the stormwater facility.

As part of the site plan approval, part of the goal was to provide more creative projects or better projects; moreover, the projects would be more attractive than a less creative, potentially by-right

property. Part of the site plan approval process would include a reduction in the open area which was largely encompassed by the fact the applicant built an interconnection which ran through the center of the property which interconnected with Wilson Street. Mr. Tracey announced some of the requested deviations would be reduced or eliminated in the 5,000 square foot donation wasn't part of the application. Since they wanted to move forward with the donation to the church, Mr. Tracey expressed they incorporated it as part of the request. He informed the audience there were five requests associated particularly with the relocation of the one structure onto Wilson Street, replacing the existing structure. Of the five deviations, one was the same which was the lot size as it could not be changed no matter what was on there. Three of the four requests were actually less than what currently existed. Mr. Tracey announced they basically took a building that was deeper than wider; therefore, they intruded more on the rear-yard setbacks. The other three setbacks were better than what previously existed. He displayed a slide which showed a comparison of the before and after of the two structures. Mr. Tracey announced the overall density was included in Exhibit F of the Planning Department's November 30, 2018 report. He emphasized they were within the densities which typically were found in these types of projects. Mr. Tracey stated the project was under the higher-end of the density range when the new townhouses were factored in. When considering the whole project – which included the homes that would remain and the one that would be relocated – the project fell on the lower range of density for projects.

Mr. Tracey restated a house on New London Road would be relocated to 41 Wilson Street. He said the house would be relocated since it was newer and in better shape; therefore, it made sense to recycle as opposed to completely remove it. Mr. Tracey displayed renderings from New London Road to Campus Walk I to the intersection with Cleveland Avenue. He pointed out the front-facing view which depicted observation of the project from Corbit Street and displayed the appearances of the buildings. Mr. Tracey showed the audience a diagram of the internal parking dimensions for the five and four-bedroom units. Units had room for two cars as well as bike storage areas in the four-bedroom units in front of the cars. Mr. Tracey expressed there was a large bike-storage area in the five-bedroom units; moreover, he announced this space would be considered a parking space or compact car parking space in some jurisdictions. Since Newark did not have this in its code, the bike storage space was not a parking space for purposes of calculating parking numbers. Mr. Tracey provided the audience with a current view of Campus Walk's area which showed the area of St. John AME church, and worked down to the 11 homes which existed on the project. He displayed a rendering of the area which depicted the current 11 homes in addition to the new project. As a result of discussion with the City, Mr. Tracey said they incorporated a design element which pushed the 11 homes back from New London Road to incorporate new street trees and additional grassy areas. This element also opened up the area for people driving by; moreover, there was a distinct absence of hiding places that people were concerned with. Mr. Tracey informed the audience there would be video surveillance as was the case with all their projects. Video surveillance would cover the outside areas.

At the Planning Commission's November 6, 2018 meeting was the inclusion of a plaque which was requested by the Newark Housing Authority (NHA) and others to be placed in the area. The plaque would denote the area's historical uses as well as changes and different aspects of the property. Mr. Tracey announced the plaque had been located at the bottom of the Campus Walk I project. While they discussed the potential to have the plaque near the church property, Mr. Tracey stated the church indicated they wished the plaque would be located closer to the bottom of the property. The wording on the plaque came from the NHA and others and was not something Mr. Tracey or the applicant came up with. Mr. Tracey expressed that he and Messrs. Hill and Mayhew were available to answer questions at this time.

Ms. Sierer thanked Mr. Tracey and opened discussion to the table.

Mr. Lawhorn said there was one issue where Council received a memo which indicated there was some debate about providing trash enclosures around any dumpster locations onsite. Mr. Tracey expressed they would have these conversations as they went through the CIP process. He expressed they proposed landscape barriers and islands around the trash enclosures which he believed was different than what they had seen from Hillcrest's other projects. Mr. Tracey expressed they planned to provide a more landscaped approach to trash enclosures as opposed to open. Mr. Lawhorn asked Mr. Tracey if they agreed to the language as the City provided; furthermore, he questioned if there would be negotiations that would take place regarding what the details were later. Mr. Tracey confirmed this was the case. Mr. Lawhorn said the overall feedback from the community about the project was generally positive. He thought the fact that Campus Walk I already existed provided them with a pilot study for what Campus Walk II would be in some respects. Mr. Lawhorn believed most of the people he spoke with in the area were eager to see more attractive development go up in the location. He restated the New London Road was heavily traveled, particularly by people who lived up Route 896. Mr. Lawhorn also received positive feedback regarding the elimination of the driveways. He thought the general behavior observed at Campus Walk I provided a good example of a project where people were able to bring their cars and

generally walked to class. Mr. Lawhorn thought people in the University's nursing program tended to be attracted to these houses since their classes were nearby and could walk to class. Some of the residents expressed concern about increased traffic on Corbit Street; however, Mr. Lawhorn believed most students who lived there walked to class and did not operate their vehicles during rush hour.

Mr. Clifton said he had the opportunity to meet with Mr. Hill and review the project. He thought it was tough to visualize what a project really looked like; moreover, most renderings provided what he referred to as a sterile view. Mr. Clifton believed the applicant's renderings provided a real, accurate portrayal of what the project would look like if it was approved. He commended Messrs. Tracey, Hill and Mayhew on their renderings. Regarding the historical sign, Mr. Clifton asked if there was any thought to work with the State. If the State placed a historical marker in, it would permanently be on the State's historical register. Mr. Clifton thought placing the project on the State's register would memorialize the historical nature for years to come; specifically, it would continue past Mr. Mayhew's ownership. Mr. Tracey thought they did not have any conversation with the State about this matter; however, he knew this was a requirement for removing a home since it was constructed through Housing and Urban Development (HUD). While the acknowledged conversations regarding the State taking it over had not occurred, Mr. Tracey restated they were obligated to memorialize it with a plaque as part of removing the original structure. Mr. Clifton asked if this was codified and Mr. Tracey confirmed this was the case. He commended Messrs. Mayhew and Hill for what he considered to be out of the box thinking; specifically, through the work with St. John AME to provide much needed relief.

Mr. Markham asked Mr. Tracey how they expected traffic would flow through the area; specifically, how people would get in and out in the area of New London Road. Mr. Tracey clarified traffic was not one-way within the drive-by; therefore, cars could go in either direction. Mr. Markham said the area was an arc; therefore, people had to get out some way. He asked if people would go out on Corbit Street or New London Road. Mr. Tracey said it would depend on where people wanted to go. More people would have a straight drive down to the intersection at the bottom of Corbit Street close to New London Road. For people who wanted to head west or beyond Cleveland Avenue, they would have the option to go out Corbit Street into Wilson Road as well. Therefore, there were no restrictions in terms of which way people could go. Additionally, there were no restrictions on Corbit Street in terms of which way people could go. Mr. Tracey thought the biggest benefit was the elimination of the many multiple access points along New London Road. The number of cars and trips were not great enough in that area to merit a traffic study. Mr. Markham restated he simply wanted Mr. Tracey's opinion on what he thought the traffic flow would be out of the development. Mr. Hill agreed with Mr. Tracey's statement to the effect traffic flow would depend on which way people left the development. People had two exits out of the development onto either Wilson Street or Corbit Street. Mr. Hill reiterated the proposal was significantly better than the current 11 driveways.

Mr. Markham asked Ms. Gray for clarification regarding the Planning Commission's vote. He was confused as to why the Comprehensive Development Plan vote was 6-1 and the Major Subdivision and Site Plan Approval was a 4-3 vote. Mr. Markham thought the Comprehensive Development Plan was a harder part of the change. Ms. Gray said Council had the Planning Commission's meeting minutes in their packets. Mr. Markham said he looked through the minutes and requested Ms. Gray's general feeling on the matter. Ms. Gray said the Planning Commissioners who voted nay made a couple of comments as to their vote. Mr. Markham questioned if it was density related and Ms. Gray confirmed one or two commissioners had concerns about density. Ms. Gray thought another commissioner was concerned with the storm water. Mr. Tracey expressed the Comprehensive Development Plan in some respects was easier on the project since it was in RM zoning which currently existed. He clarified it was common to see zoning from RD to RM and emphasized this wasn't the case with the current project. Mr. Markham thought one of the positive aspects in this matter was due to the fact they were not attempting to rezone and changed the Comprehensive Development Plan from low to high-density residential. He also appreciated the fact the project removed driveways and donated land to the church. Mr. Markham hoped the church would reach out to the nearby residents to invite them to join in their activities. He believed there was a nice gateway from the residence into the church and thought the church always looked for people to join.

Mr. Markham mentioned the project saved a house and expressed they would put up a historic plaque up to mark the area. Mr. Tracey announced the area was never added to the National Register or anything of that nature; however, there were discussions where the request/requirement for the sign came about. Mr. Markham believed the City did something similar in terms of honoring a local resident at the George Wilson Center. He thought it was unusual since the project both moved and saved a house. Mr. Tracey expressed Mr. Mayhew did this at least once before; however, it was not in the context of a project of this nature. Mr. Markham was pleased since the project did not clear-cut any trees and believed Mr. Mayhew was a landlord with an excellent reputation.

Mr. Morehead truly appreciated the donation of land to the church. Having said that, Mr. Morehead believed it appeared it made the lot look like the development was shoe-horned. He thought the front row of houses fit; however, he was unsure if the back row fit completely. Mr. Morehead thought Mr. Mayhew had two units too many for the back row. He believed three parking spaces would be required for each of the units in the back. Mr. Morehead thought there were three parking spaces for 14-units and only two spaces for the remaining two-units. Mr. Morehead thought the units in the front could sell; however, he did not know how they would be able to justify that double stacked parking belonged to units across the street. He thought the traffic in the area was horrendous at any area where they came out of this property. Mr. Morehead described the traffic at either end of Corbit Street as horrendous. He believed they would end up with a stop light at the West Main Street end of Corbit eventually; furthermore, he thought there would be a stop-light at the New London end of Corbit Street. Mr. Morehead expressed he grew up driving in a big city and described the traffic in this area as an accident waiting to happen. He found it hard to believe that DelDOT would not have data which indicated the two ends of Corbit Street needed to be fixed in the future.

Mr. Morehead thought the project added to the problem that already existed between New London Road and Hillside Road. He restated his belief regarding there were two units too many and believed the project would be better if they cut it down slightly. He requested additional bike racks for the project since people would be less likely to drive their cars. Mr. Morehead emphasized nine bike racks were far from sufficient. Ms. Sierer thought the bike racks increased from the Planning Commission. Mr. Hill confirmed this was the case and clarified they did not consider bike parking in the garage as extra space. Mr. Hill said three bike racks could be added to each unit. Mr. Morehead thanked Mr. Hill for the reminder and thought the amount was sufficient. Mr. Morehead believed open space between the driveways needed to be contiguous for a minimum size of a couple hundred square feet. He thought the rendering indicated the open space was about 4-feet wide at the most by 18-feet long. Ms. Gray said open space was defined in the Code as anything that did not have a building on it. Mr. Fruehstorfer confirmed this was the case in RM zoning. Mr. Morehead asked if pavement would be counted as open space. Ms. Gray confirmed this was the case. Mr. Morehead thought the area was listed on the rendering as private open space with a cross hatch pattern.

Mr. Hamilton appreciated the fact the project donated land to the church and worked with the neighbors. He believed Mr. Lawhorn understood the residents' feelings towards the project since the area was in his district and indicated there were not many objections. Mr. Hamilton announced his support for the project and appreciated Mr. Mayhew's good reputation as a landlord.

Ms. Sierer opened the discussion for public comment.

Jean White, District 1, said she had six minutes to speak since Anita Rush ceded her time. Ms. White thought the architecture of Campus Walk I was attractive and excellent; moreover, she could see what it looked like as it went further up. Ms. White supported the continuation of the architecture all the way up to the church and thought it was really excellent. Additionally, Ms. White thought it was beneficial since the developer owned the houses that would be taken down. Furthermore, she supported moving the house at 87 New London Road to 41 Wilson Street. Ms. White acknowledged the house at 41 Wilson Street would be demolished and the house from 87 New London Road would be put in its place. However, Ms. White strongly opposed the second row of 16 four-bedroom townhouses that would be put behind and parallel to the ones on New London Road. Ms. White said there were currently 12 five-bedroom townhouses on New London Road and did not approve of the additional 16 four-bedroom townhouses.

Ms. White announced she opposed the 16 four-bedroom townhouses for several reasons. She was concerned with the increased vehicular traffic in the area that would continue to worsen. Ms. White expressed there would be 12 five-bedroom townhomes on New London Road; moreover, there were already cars in the area as a result of Campus Walk I. With Campus Walk II along New London Road, Ms. White stated there would be 60 cars added. The second row of townhouses – which was 16 four-bedroom townhouses – would add an additional 64 cars. Ms. White clarified she was opposed to the addition of the 16 four-bedroom townhouses since there would be an additional 64 cars in the area. Ms. White said all the cars would be required to go out either at the present place on Corbit Street or by Wilson Road. She described Wilson Street as a one-block long street that began at West Main Street and ended on New London Road. She thought Wilson Street was problematic since all cars from the development would go out onto it. While Ms. White acknowledged all cars would not go out at the same time, she restated the developer's addition of a significant amount of parking spaces would greatly increase the traffic in the area. Ms. White thought Corbit Street was already a problematic street since she lived in close proximity to it [and traveled in one way or the other]. She thought the development was too dense; therefore, Ms. White announced the density was the second reason she opposed the proposal. She reiterated her concern regarding traffic and believed the development was too dense and too tight.

Ms. White thought the maximum lot coverage was 20% and would be 34.4% with the development. She expressed Will Hurd, Planning Commissioner, pointed out it was a 72% increase in lot coverage [from 20% to 34%]. The minimum open space was 40% currently; however, it would decrease to 28.5% if the development went forward. Ms. White thought this would be a 31% decrease in open space. She opposed the second row of 16 four-bedroom townhouses for a third reason because of the method of drainage and stormwater handling. She believed the area used for drainage and stormwater had taken away the land that could be used to mitigate stormwater problems. Ms. White believed the stormwater problems could be mitigated in several ways. She thought there could be a bioretention area there; additionally, she suggested additional landscaping, trees and other measures. Instead of cutting off the houses at 40 and 42 Wilson Road, Ms. White thought some of the measures could be put back into those properties. Ms. White believed Planning Commissioner Stacey McNatt was particularly concerned with the stormwater situation. She pointed out the stormwater retention plan – which shared a border with the church's property – was used to handle the stormwater from West Main Street. Ms. White said the stormwater management did not handle any of the water from this project and the second row of townhouses. Ms. White believed the stormwater from the project was not being handled at all and expressed it went down into the drain and eventually went to White Clay Creek.

She expressed the Planning Commission barely passed this project at a 4-3 vote. Ms. White thought the project would have passed at a 7-0 vote instead of 4-3 if the second row of 16 four-bedroom townhouses were not part of it. She stated the Planning Commissioners who voted against the project felt it was either too dense or the stormwater problems were not addressed. Ms. White announced she supported the connection of Wilson Street around as a loop. She thought it was important for emergency vehicles to have that access point.

Sherdonald Gude, District 5, said he was unaware that Mr. Mayhew donated a portion of property to St. John AME. He commended Mr. Mayhew for this donation. Mr. Gude believed there were many private investors in the business who looked out only for themselves. He thought it was a good thing that Mr. Mayhew already established Campus Walk I and expressed the development covered a significant area and intersected with Corbit and New London Road. As a long-term resident of Newark for 20+ years in the Corbit Street area, Mr. Gude welcomed the idea to continue the project all the way up to the church. Mr. Gude referenced a comment made earlier by Mr. Morehead to the effect a traffic light might need to be located on New London Road. He expressed a yellow flashing light already was in place at the corner left intersection of New London Road and Corbit Street. If the light was turned on and utilized, Mr. Gude thought less money would be spent by whatever agency who was responsible for it.

As far as traffic flow on Corbit Street and Wilson Road, Mr. Gude announced he lived on that corner for 20 years. He believed the traffic in the area was cumulative and stated it came from Pennsylvania, Maryland, and regular commuters who traveled off of Cleveland Avenue. Mr. Gude said commuters traveled up Wilson Road as a thoroughfare or cut-through in order to beat traffic lights. He expressed students left their vehicles in front of the existing structures on Wilson Street; furthermore, they did not use their cars very much unless they had to go to the grocery store. Mr. Gude did not foresee a burden to the effect of increased traffic and over-congestion if Campus Walk II were permitted to go behind Campus Walk I. Mr. Gude thought the conversion of Wilson Street to a non-parking street would alleviate some of the non-tenant parking that occasionally occurred on Wilson Street itself. He expressed non-tenant parking on Wilson Street was the only issue he experienced over time. Mr. Gude clarified students parked their vehicles on Wilson Street and did not have a parking permit or did not live there. He believed it was a good thing to go through with the project itself and described it as a win-win situation. Mr. Gude thought the project was all about economic development; specifically, there would be revenue for the City. Contractors would receive revenue from the project and would pay fees for permits and other items. Mr. Gude believed the project was all about progress.

Blaine Hackett, Pastor of St. John AME church, said the church board and lawyer reviewed the project plans and determined they were in agreement with Mr. Mayhew's project going forward. Pastor Hackett stated although they would receive some land, they would donate some land as well [2,200 feet] for the retention pond. He described the situation as a win-win for everybody and believed the project would improve the aesthetics of the community. Pastor Hackett emphasized the project would specifically enhance the aesthetics of New London Road. He expressed Mr. Mayhew worked out for the flow from the retention pond to connect down to Corbit Street and expressed some of the drainage issues would be mitigated. Pastor Hackett reiterated the church board looked over the project and were in agreement for Mr. Mayhew to move forward with the project.

Bob Anderson, President of the Trustee Board at St. John AME church, stated they did several things over the last 15-20 years to help the City and State. Mr. Anderson expressed the church members were responsible for the design of New London Road and Cleveland Avenue. He emphasized the State

was not responsible for the design and clarified the State determined the design would work. Mr. Anderson said the board was concerned with trucks and busses turning; therefore, they moved the design back about 15-20 feet. Since Campus Walk I's construction, Mr. Anderson announced another lane basically was created. At the right turn on New London Road, there previously was one lane. Now, there was another lane. When the traffic came up now, Mr. Anderson expressed the lane began at Corbit Street and continued all the way towards the church. Another lane went all the way up to Cleveland Avenue, where cars would then turn left. For these reasons, Mr. Anderson announced he almost never ran into back-up anymore. He expressed he was able to turn right directly into the church parking lot; therefore, Mr. Anderson stated the area was better than it was many years ago from that perspective. He stated St. John AME was a historic site and they were in the process of making it a national historic site. The State of Delaware worked with the church to help them make it a national historic site.

Mr. Anderson acknowledged the historic plaque down the street. He expressed the desire to incorporate the whole area at some point. Mr. Anderson informed the audience St. John AME was the oldest black institution in the City of Newark and was established in 1848. There was a log cabin in the middle of Hillside Road – which the church sold to the City in 1959 – to get to Main Street. Mr. Anderson announced they recently remodeled the current church on the property and said it looked good inside. He emphasized the fact people should not judge a book by its cover and announced the church was built in 1867. While the church personally took pride in its historic properties, Mr. Anderson said the church believed it should be personal to everyone in Newark since it was one of the oldest black institutions. Mr. Anderson thought this was the only thing left in the community with the exception of the New London School. He reiterated the church would use the donated land to do some good for the community. Mr. Anderson expressed they would make additional rooms and build some class rooms with computers. He stated there would be space for meetings. Mr. Anderson said St. John AME was a church who believed in being a part of the community. Therefore, whatever they accomplished would be for the community of Newark as well as St. John AME church.

Kasai Guthrie, District 1, said he spoke to several of his friends who lived in Campus Walk I. Many of the students who lived there loved the houses and townhouses. Mr. Guthrie thought the plan seemed a bit dense. He thought it would be beneficial to clear up the congestion on Corbit Street on Monday through Friday and believed it would be helpful to put in a bus stop for the UD shuttle. Mr. Guthrie expressed he spoke with several students who indicated they wanted a bus stop at that location. He suggested City staff to reach out to the University to consider the addition of a UD shuttle on Corbit Street.

Ms. Sierer brought discussion back to the table for further discussion or questions from Council.

Mr. Clifton asked Mr. Hill to provide clarification for some of the stormwater issues in the development. Mr. Hill expressed the stormwater management in the development was a very unusual design. The stormwater basin for the development was a bio-media filtration basin and was located at the top of the hill like it was suggested earlier. Mr. Hill emphasized calculations were made down below the project; therefore, the stormwater facility would capture and treat the equivalent of what the project was and discharging it below the project. This would be accomplished by using the area above the project in order to comply the DNREC codes and City requirements. Mr. Clifton emphasized the development would be in full compliance with the City and State on the stormwater code. He restated the design was unusual and required additional thinking. Mr. Hill expressed the stormwater management was in good shape. Mr. Clifton asked Mr. Mayhew if he had experience moving a house off of Main Street [where Bahn Mi Boy was located] to South Chapel Street. Mr. Mayhew informed Mr. Clifton he did not move the house off Main Street. He considered to move a house off New London Road and move it to Church Street for the Campus Walk I project; however, it was not financially possible at the time. Mr. Mayhew announced he built many modular houses where they were brought in on tractor trailers and put in place. He stated he provided a deposit to the firm and would be set to move the house this summer if approval was granted.

Mr. Morehead struggled with why the City had laws; specifically, since it appeared they would set them aside to certain large percentages as requested in the proposal. He believed 1-4% was appropriate; however, he was not okay if 6 feet were approved if 25 feet were required.

Mr. Hamilton asked for the project's open space if the parcel of land was not donated to the church and included in the existing project. Mr. Mayhew said open space request would drop from 11.5% deviation to a 6.6% deviation. Therefore, the open space request would be cut in half. Mr. Hamilton thought the project would be more compliant if they did not give away the land; however, he thought the donation of the land made the project a win-win for everyone here. Mr. Hamilton expressed he used to be hard on some projects' adjustments and believed it was necessary to make decisions in order to shoe-horn people into the City. He liked the fact Mr. Mayhew donated the land to the church and believed it

was one of the linchpins that moved some of the offsets. Mr. Hamilton appreciated the fact that Mr. Mayhew helped out the neighbors and the City.

MOTION BY MR. LAWHORN, SECONDED BY MR. CLIFTON: TO PASS BILL 18-33 AS PRESENTED.

Ms. Bensley stated the motion required individual votes from Council members because it was a Comprehensive Development Plan amendment. Mr. Bilodeau confirmed this was the case and announced Mr. Lawhorn would be able to state them.

Mr. Lawhorn voted affirmatively for this motion for the reasons stated in the Planning Commission Report and the reasons in Planning Section A of the Comprehensive Development plan. Mr. Lawhorn noted high-density was recommended in this district and it matched the neighboring properties.

Mr. Clifton voted affirmatively for the reasons stated by Mr. Lawhorn.

Mr. Markham voted affirmatively with the Subdivision Advisory Committee's recommended conditions and believed the development would not have a negative impact on the adjacent or near-by properties. Additionally, the proposed use did not conflict with the development pattern in the nearby area.

Mr. Morehead voted against the project based on page 5 of the Planning Department's October 30, 2018 report which demonstrated it did not agree with the City's Comprehensive Development Plan.

Mr. Hamilton voted affirmatively for this project for the reasons provided by Mr. Markham.

Ms. Sierer voted affirmatively for Bill 18-33 for the reasons stated by Mr. Markham.

MOTION PASSED. VOTE: 5 to 1.

Aye – Clifton, Lawhorn, Hamilton, Markham, Sierer.

Nay – Morehead.

Absent – Wallace.

**(ORDINANCE NO. 19-04)**

**24. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING & DEVELOPMENT DEPARTMENT:**

- A.** The request of Kevin Mayhew for the Major Subdivision with Site Plan Approval of 2.240 Acres in Order to Demolish Nine Existing Structures on New London Road and One Existing Structure on Wilson Street, Move One Existing Structure from 87 New London Road to 41 Wilson Street and Construct 12 Five-Bedroom and 16-Four-Bedroom Units Three-Story Townhouse Apartments for a Total of 28 Townhouse Apartments with Associated Parking at the Property Located at 83-105 New London Road and 36-42 Wilson Street to Be Known as Campus Walk II ***(Agreement and Resolution Attached) (See Item 9-A)***

**4:14:35**

*(Secretary's Note: The public hearing for this item was held under item 9-A.)*

MOTION BY MR. LAWHORN, SECONDED BY MR. CLIFTON: TO APPROVE THE MAJOR SUBDIVISION WITH SITE PLAN APPROVAL FOR 2.240 ACRES IN ORDER TO DEMOLISH NINE EXISTING STRUCTURES ON NEW LONDON ROAD AND ONE EXISTING STRUCTURE ON WILSON STREET, MOVE ONE EXISTING STRUCTURE FROM 87 NEW LONDON ROAD TO 41 WILSON STREET AND CONSTRUCT 12 FIVE-BEDROOM AND 16 FOUR-BEDROOM UNITS, 3 STORY TOWNHOUSE APARTMENTS FOR A TOTAL OF 28 TOWNHOUSE APARTMENTS WITH ASSOCIATED PARKING AT THE PROPERTY LOCATED AT 83-105 NEW LONDON ROAD AND 36-42 WILSON STREET TO BE KNOWN AS CAMPUS WALK II.

MOTION PASSED. VOTE: 5 to 1.

Aye – Clifton, Lawhorn, Hamilton, Markham, Sierer.

Nay – Morehead.

Absent – Wallace.

**(RESOLUTION NO. 19-D)**

- 25. 11. ITEMS SUBMITTED FOR PUBLISHED AGENDA:  
A. Council Members: None.
- 26. 11-B. OTHERS: None.
- 27. Meeting adjourned at 11:15 p.m.

Renee K. Bensley, CMC  
Director of Legislative Services  
City Secretary

/wcp